

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2015

WEDNESDAY, APRIL 9, 2014

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 9:25 a.m., in room SD-124, Dirksen Senate Office Building, Hon. Jack Reed (chairman) presiding.

Present: Senators Reed, Leahy, Udall, Murkowski, Cochran, Hoeven, and Johanns.

ENVIRONMENTAL PROTECTION AGENCY

STATEMENT OF HON. GINA McCARTHY, ADMINISTRATOR

ACCOMPANIED BY MARYANN FROEHLICH, ACTING CHIEF FINANCIAL OFFICER

OPENING STATEMENT OF SENATOR JACK REED

Senator REED. I would like to call the hearing to order and welcome everyone here, particularly Administrator Gina McCarthy. Thank you. Gina and I understand each other because she has an accent similar to mine, and she is a devout Red Sox fan, so the rest is sort of nice, but not important.

So thank you for being here. And she is joined by the Acting Chief Financial Officer, Maryann Froehlich. Thank you, Maryann.

The President's fiscal year 2015 budget request includes \$7.9 billion for EPA, and that amount is \$310 million, or 4 percent, below the fiscal year 2014 enacted level of \$8.2 billion. Regrettably, this is the fourth year in a row that the administration has set up a declining budget request for the Environmental Protection Agency (EPA), and I want to express my disappointment frankly. We worked awfully hard, Senator Murkowski and I, to ensure that there were adequate resources for EPA facing significant challenges. And again, the administration sent up a budget that rolls that progress back.

In addition to cutting the Agency's budget this year, the Agency is proposing a workforce reduction that will bring EPA down to its lowest staffing since 1989, and we will talk about that. But despite the overall cut, the budget makes some important investments: dedicating \$200 million to addressing the threat from climate change, and providing an additional \$23 million for chemical safety work that will reduce the risk with the exposure to chemicals. The budget request also includes \$70 million for an issue called

E-Enterprise, which will improve electronic data collection and availability for States and the regulated community.

There are other encouraging fund increases. The request proposes \$5 million for the geographic program to restore southern New England watersheds, and I thank the proposal for that. These funds will support the effort to protect, enhance, and restore the coastal watershed of southern New England, including Narragansett Bay and Rhode Island. The National Estuaries Program is funded at \$26 million, an increase of \$1.6 million. And also an additional \$76 million is provided for categorical grants to help States and tribes with their environmental problems and programs for a total of \$1.13 billion.

Unfortunately, these very positive signs are undercut by the proposal with respect to clean water and drinking State revolving funds. Once again, I voice my strong disagreement with the proposed decreases to the State revolving funds. The largest reduction in EPA's budget request is to these funds, cutting them by \$581 million, or 25 percent below the fiscal year 2014 enacted level. And if realized, this cut would translate into 32,000 fewer jobs and 270 fewer infrastructure projects nationally.

This program is not only necessary to replace aging infrastructure and to create new environmentally sensitive infrastructure, but also directly cuts job creation. And I find that ironic because the President in February said one of the fastest and best ways to create new jobs is rebuilding America's infrastructure. And if we take this money, you impede the reconstruction of our infrastructure, and I am troubled to see this proposal, very troubled.

And I believe the cuts to the State revolving funds will be a setback for the economy as well as the environment. This is one of those programs that is not just about environmental quality. That is central. But it is also about economic progress, and that is critical at this moment.

So there is lots to discuss this morning, and again, I thank the Administrator. I commend the Administrator. She has brought extraordinary experience and dedication to her task, and she is someone that I respect immensely.

With that, let me turn to the ranking member, Senator Murkowski, and ask her for any comments she might make.

STATEMENT OF SENATOR LISA MURKOWSKI

Senator MURKOWSKI. Thank you, Mr. Chairman, and welcome, Administrator. Mr. Chairman, I want to follow on your comments about the State revolving funds for water. You and I have had an opportunity to discuss the significance of these programs. I was reminded just yesterday in a video teleconference with residents in the Yukon-Kuskokwim region, and a woman came to the microphone. She was from a small village called Kalskag, and she spoke specifically to the importance of Federal funding to help with water and sewer infrastructure.

She said in her community of Kalskag, they still lack basic infrastructure. It is not like we are trying to build out existing; there is none. And it is a situation where in her village they are still using honey buckets, which basically means that they have got to haul their human waste and dump it, oftentimes very—clearly very

unsanitary conditions. But she reminded me that in many parts of Alaska, we continue to live in third world conditions. And so, I share your concern about the significance of funding for our water projects.

Ms. McCarthy, I thank you for your willingness to come to Alaska last August to learn about our State. I got good feedback from some of your meetings. I think Alaskans were impressed with your candor. You clearly demonstrated a willingness to listen, to really try to get a feel for the nature of our land and our people. I think that you saw that we have got some pretty unique needs and resources, which present us with some very diverse challenges. And, of course, the hope is that when you have an opportunity to come and see, there is a greater understanding, a greater appreciation of who we are in the places that we call home.

And I think it is unfortunate that you made some comments a couple of months ago, some unfortunate comments that showed some insensitivity not only Alaskans generally, but more particularly towards Alaska native culture, and I do appreciate that you have apologized for your remarks. But I think it is important that you recognize that the way this was then interpreted by Alaskans was that this was just yet one more example of how folks in Washington, DC, do not get us, do not understand our way of life, do not understand the issues that are so critical between Federal agencies and a State like mine.

And then we have hearings like this where the agencies say we understand it. We get it. But when given an opportunity to make good on the word, oftentimes we do not see evidence of that. There are rules after rules of that that come out, and sometimes we feel like we are either ignored or disrespected.

So I want to make clear to you how some of the statements and actions are being interpreted back home because I think that that is important for you to include into your calculus. Alaskans are looking for collaboration from the agencies that have such a significant impact on our State. We are clearly ready to partner with the EPA to continue what we believe is a proud record of resource production and environmental protection. But unfortunately, rather than collaboration, we have been on the receiving end of what we believe to be a regulatory onslaught that threatens our economy and, in certain cases, our way of life. And I think that this budget proposal is no exception to that.

Last year when Deputy Administrator Perciasepe appeared before the subcommittee, we discussed the fact that for several years running I have heard more complaints from Alaskans about the EPA than any other agency out there. And that trend is still continuing. I am sure that this is the case for other colleagues as well. The sheer number of proposed rulemakings coupled with the cost of compliance with the vast array of regulations already on the books and what at times are the unreasonable consequences of their enforcement is very, very frustrating to Alaskans and around the country.

I could spend my entire time here talking about the many existing and proposed EPA regs that profoundly affect the livelihood of our families and our businesses, but one of the most troubling is the recent development with the EPA's proposal to change its ap-

plication of the definition of “Waters of the United States” under the Clean Water Act. EPA claims that this would clarify the law, but in reality it promises to drastically increase EPA’s reach.

I have described this as a potential showstopper for new development in Alaska. Roughly two-thirds of our State is already considered wetlands, and this rule could dramatically expand the lands subject to regulation. So it is not hard to see it as a continuation of this administration’s unofficial policy of what I have described as protecting Alaska from Alaskans. But in this case when it comes to this particular rule, I would suggest that it also has very serious impacts across the rest of the country as well.

I would also note my concerns with rules that are proposed or expected for new and existing power plants—methane emissions and hydraulic fracking, among others. I am concerned that EPA continues to regulate without appropriate coordination with other agencies and impacted industry. I think that this agency, above others, could jeopardize the affordability and reliability of our energy supply. If we are not careful, I think its rules could cost jobs and force us to forego opportunities to create new ones.

It is not an overstatement to say that recent actions taken by EPA would fundamentally change our economy and the lives of the people we are here to represent. And so, for this reason it is all the more critical that we here in Congress diligently exercise our oversight role.

I do look forward to our discussion during the hearing. And again, thank you for your willingness to serve.

Senator REED. Before recognizing the Administrator, does anyone have a brief statement? All written statements will be made part of the record.

[No response.]

If there are no opening statements by colleagues, without objection, all statements will be accepted into the record.

[The statement follows:]

PREPARED STATEMENT OF SENATOR PATRICK J. LEAHY

Administrator McCarthy, thank you for taking on one of the most important and challenging jobs in the United States. Your agency invokes a lot of strong reactions from the public, and certainly from Congress, but in its 43 year history the EPA has cleaned the country’s drinking water, reduced our exposure to dangerous chemicals, and penalized polluters.

Vermonters truly value the environment and the work of the EPA. From cleaner air, to conserving open spaces and wildlife, protections from exposure to toxic chemicals, to improving water quality and addressing climate change, I hear regularly from Vermonters about issues affecting all aspects of our environment.

Right now, Vermonters are concerned about our “great lake,” Lake Champlain. They want and need a lake for swimming and fishing, and for drinking water. The Lake Champlain Chamber of Commerce can tell you that a clean Lake Champlain attracts businesses and tourists to the region. It serves as a major driver of the State’s economy.

Lake Champlain is, overall, very clean, but some sections of the Lake at some times of the year can become seriously impaired with nutrient pollution. For this reason, your agency is requiring a new restoration plan, and is working closely with the State to review a phase one draft at this time. As we discussed in person late last month, success of the new plan will hinge on having a full suite of tools available to address the major sources of phosphorus pollution in the Lake including farms, rural town roads, culverts, river channels, as well as small town stormwater and transportation infrastructure.

I hope that the EPA, and this Committee, understands that we face a unique challenge for Lake Champlain, compared with other, more urbanized, areas of the

country. We have a small rural population spread across a largely undeveloped landscape, something I know our ranking member can easily relate to. Pollutants reach the lake from thousands of small, non-point sources rather than from easily identified discharge pipes. This is not a problem that can simply be solved by investments to improve wastewater treatment plants. Those plants contribute only 3 percent of the total phosphorus in Lake Champlain.

Instead, we must have a broad mix of common-sense policy tools and coordinated education, outreach, and funding assistance to a dispersed rural population. Vermont cannot afford to handle these tasks on its own. We will need to partner with every Federal agency from the Army Corps of Engineers, to Transportation, Housing and Urban Development, the Fish and Wildlife Service, the Department of Agriculture, and of course the EPA in order to succeed in this cleanup, and I thank you for your support of those efforts.

Senator REED. Thank you, Senator. Administrator McCarthy.

SUMMARY STATEMENT OF HON. GINA MCCARTHY

Ms. MCCARTHY. Thank you, Chairman Reed, Ranking Member Murkowski, and members of the committee. I appreciate the opportunity to discuss the Environmental Protection Agency's proposed fiscal year 2015 budget. As the chairman indicated, I am joined at the table by the Agency's Acting Chief Financial Officer, Maryann Froehlich.

EPA's budget request is \$7.89 billion for fiscal year 2015 which starts on October 1, 2014. This budget meets the challenges of domestic spending constraints while still fulfilling our mission to protect public health and the environment. The fiscal year 2015 budget reflects EPA's plans to take advantage of new technologies and new regulatory and non-regulatory approaches. It recognizes that EPA is part of a larger network of environmental partners, and State, and tribes, and communities.

This budget will provide the support for a smaller workforce by focusing on real progress and priority areas in communities, climate change and air quality, toxics and chemical safety, and clean water. We are asking for \$7.5 million and 64 staff in fiscal year 2015 to help provide green infrastructure, technical assistance for up to 100 communities to promote cost-effective approaches for water management.

In addition, this budget request continues our environmental justice efforts. We will do more to partner with States, tribes, and local governments, and other Federal agencies. Funding for State and Tribal Assistance Grants, or STAG, is once again the largest percentage of EPA's budget.

Addressing the threat from climate change is one of the greatest challenges of this and future generations. The request designates \$199.5 million specifically for this work. The Agency has added \$10 million and 24 full-time equivalents (FTEs) in fiscal year 2015 to support the President's climate action plan with \$2 million designated for adaptation planning.

The Agency will focus resources in the development of common sense and achievable greenhouse gas standards for power plants, the single largest source of carbon pollution. When it comes to cutting greenhouse gas emissions, the President's budget provides support for the States to help them implement the Clean Air Act.

The EPA budget requests almost \$663 million to support the work to improve chemical safety for all Americans and especially for our children. We are requesting \$23 million and 24 FTEs in fis-

cal year 2015 to support activities under the President's Executive order on chemical safety, as well as Agency efforts on chemical prioritization, air toxics, radon, and volatile, again, compounds in drinking water.

The Nation's water resources are the lifeblood of our communities. We are requesting \$1.775 billion for clean water and drinking water State revolving funds. The Agency is also directing \$8 million and 10 FTEs to advance clean water infrastructure and sustainable designs like the Municipal Separate Storm Water Sewer System Programs for technical support to communities.

E-Enterprise is a major initiative between EPA and our States to modernize our business practices, to get into the 21st century, and to look towards the future. The benefits of implementing the e-Manifest system include annual savings estimated at \$75 million for over \$160,000 waste handlers.

In fiscal year 2015, the Agency is requesting over \$1.33 billion to continue to apply effective approaches for clean up under the Resource Conservation and Recovery Act (RCRA) Superfund leaking underground storage tanks and other authorities. This strategy will ensure land is returned to beneficial use. \$1.16 billion is requested for the Superfund, and you will see that it includes a \$43.4 million increase from remedial work and an increase of \$9.2 million for emergency response and removal.

The fiscal year 2015 budget includes a total of \$1.13 billion for categorical grants. Within this total is over \$96 million for tribal general assistance grant programs, an \$18 million increase for pollution control, a \$16 million increase for environmental information grants, and a \$15 million increase for State and local air quality management.

Lastly, science is the foundation of our work at EPA, and EPA is supported by the President's request of \$537.3 million. Recognizing the importance of the two-year budget agreement Congress reached in December, the levels are appropriate for us to be requesting, but they are not sufficient to expand opportunities for all Americans and to really drive the kind of growth that we all would like to see. For that reason across the Federal Government, the budget also includes a separate fully-paid \$56 billion initiative. Within this initiative is a Climate Resilience Fund, which includes \$10 million for protecting and enhancing coastal wetlands, and \$5 million to support urban forest enhancement and protection.

PREPARED STATEMENT

Mr. Chairman, Chairman Reed, I thank you for the opportunity to testify, and I would welcome an opportunity to answer your questions.

[The statement follows:]

PREPARED STATEMENT OF GINA MCCARTHY

Chairman Reed, Ranking Member Murkowski, and members of the subcommittee, thank you for the opportunity to appear before you to discuss the Environmental Protection Agency's (EPA) proposed fiscal year 2015 budget. I'm joined by the Agency's Acting Chief Financial Officer, Maryann Froehlich.

EPA's budget request of \$7.890 billion for the 2015 fiscal year starting October 1, 2014 reflects our ongoing efforts to meet the challenges facing the agency today and into the future. Despite these challenges, we remain dedicated to protecting

public health and the environment, and we know we must target staff and resources and find new ways to fulfill our mission. We will focus those resources in a way that will allow EPA to be more effective and efficient.

The fiscal year 2015 budget reflects a strategic approach to our budget planning process, looking toward the future rather than continuing to simply react to tough budget choices with cuts across the Agency. The fiscal year 2015 budget request does this in the following ways:

- It reflects EPA's incorporation of new technologies and new regulatory and non-regulatory approaches that can help us maintain our efficiency and effectiveness.
- It strengthens EPA's partnership with public health and environmental protection partners in States, tribes and local communities with a focus on aligning our resources, avoiding duplication, and identifying and closing any gaps in the broader environmental enterprise system.
- It invests our funds and leverages funds of our partners where it makes the most sense and gets the biggest bang for the buck.

Following the framework of priorities laid out in the fiscal year 2014–2018 Strategic Plan and working within our budget, we are committed to ensuring the staff we have in program areas and regions make the most sense and will have the most impact.

EPA has already taken steps toward proactive management of our operating budget. Through the VERA/VSIP process, we have begun to accelerate attrition within EPA both at headquarters and the regions toward a ceiling of 15,000 non-refundable full-time equivalents (FTE's).

Our fiscal year 2015 budget relies on a reduced workforce focused on programs, policies, and regulations that matter most to public health and the environment. This is not simply about cutting the workforce to save costs. We are reshaping the workforce and our work to meet current and future challenges. Doing this includes making key investments.

It makes long-term fiscal sense to invest the cost savings achieved—through a smaller workforce and improved use of technology—to work smarter and more effectively. This approach will keep EPA strong, focused on science and the law, and transparent in addressing environmental challenges and the results we have achieved.

This budget will provide the support we need to move forward by targeting real progress in priority areas: communities, climate change and air quality, toxics and chemical safety, and clean water.

Building on current work on the ground in our communities, we are asking for \$7.5 million and 64 staff in fiscal year 2015 to work toward efforts that will make a difference in people's everyday lives and in their communities. Those efforts include providing green infrastructure technical assistance for up to 100 communities that will promote cost-effective approaches to water management.

This budget request furthers our environmental justice efforts. The protections provided by our national environmental laws must be accessible to everyone. We will do more to partner with States, tribes, and local governments and other Federal agencies to better coordinate and leverage resources supporting community efforts.

Addressing the threat from a changing climate is one of the greatest challenges of this and future generations. The request for climate change and air quality is \$1.03 billion—over \$41 million more than fiscal year 2014. And it designates \$199.5 million specifically for climate change work.

Building on existing efforts and base budget resources, the Agency has added \$10 million and dedicates 24 FTE's in fiscal year 2015 to support the President's climate action plan. \$2 million is designated for technical assistance for adaptation planning for water utilities at greatest risk from storm surges. Research and development efforts will focus on support tools for at-risk communities and tribes in preparing for the impacts of climate change.

The Agency will focus resources on the development of common sense and achievable greenhouse gas standards for power plants—the single largest source of carbon pollution. The President's budget provides support for the States to help them meet their obligations under section 111 of the Clean Air Act with regard to cutting carbon emissions.

This request also supports the President's interagency methane strategy and the President's recently announced directive to EPA to develop phase 2 fuel efficiency and greenhouse gas standards for heavy-duty vehicles. EPA also will be implementing a range of activities in support of the President's call to cut energy waste in homes, businesses, and factories.

Chemicals and toxic substances are prevalent in our everyday lives. The EPA budget requests almost \$673 million to support work to reduce the risk and increase

the safety of chemicals and prevent pollution for all Americans and especially children.

We are requesting \$23 million and 24 FTE in fiscal year 2015 to support activities under the President's Executive order on chemical safety, as well as Agency efforts on chemical prioritization, air toxics, radon, and volatile organic compounds in drinking water. \$5 million in resources for air toxics work will enhance our capabilities to design effective regulations and continue developing the national air toxics assessment.

The Nation's water resources are the lifeblood of our communities. The fiscal year 2015 budget recognizes the long-term benefits of healthy aquatic systems for all aspects of our daily lives.

The Agency is directing \$8 million and 10 FTE to advance clean water. Resources are also proposed for the municipal separate storm sewer systems program for technical support to communities that must develop effective stormwater permits for the first time.

We are requesting \$1.775 billion for the clean water and drinking water State revolving funds (SRFs). Although this is more than a \$580 million decrease over fiscal year 2014 levels, Federal capitalization of the SRFs totals over \$22 billion since fiscal year 2009, if you include the fiscal year 2015 request. The fiscal year 2015 budget seeks to ensure that Federal dollars provided through the fund lead to the design, construction, and support of sustainable water infrastructure.

The EPA is looking toward future ways to better serve the American people by employing technology where it can be used more effectively. E-Enterprise is a major joint initiative between EPA and States to modernize our business practices and to increase responsiveness. This effort holds the promise of increased effectiveness and savings for businesses as well as government. The agency is expanding efforts in the second year of the multi-year E-Enterprise business model including focusing people and resources to accelerate development of the E-Manifest system and associated rule-making work. For example, the benefits of implementing the E-Manifest system include annual savings estimated at \$75 million for over 160,000 waste handlers. Transitioning from a paper-based system saves time and effort for every person who used to handle that paper.

In addition, EPA is making changes to long-standing business practices such as contracts, grants management, and the regulation development process. One important area of emphasis is improving freedom of information act (FOIA) and records management.

In fiscal year 2015, the Agency is requesting over \$1.33 billion to continue to apply the most effective response approaches for cleanups under the Resource Conservation and Recovery Act (RCRA), Superfund, Leaking Underground Storage Tank, and other authorities. This strategy will help ensure land is returned to beneficial use in the most effective way. \$1.16 billion is requested for Superfund which includes a \$43.4 million increase for remedial work and an increase of \$9.2 million for emergency response and removal.

In this budget, we hold firm our priority support for State and tribal partners, the primary implementers and front line of environmental programs. Funding for State and tribal assistance grants—or STAG—is once again the largest percentage of the EPA's budget request and prioritizes funding for State categorical grants.

The fiscal year 2015 budget includes a total of \$1.13 billion in categorical grants—a net \$76 million increase over fiscal year 2014.

- Within that total is over \$96 million for tribal general assistance program grants—a \$31 million increase over fiscal year 2014.

- We also included an \$18 million increase for pollution control (section 106).

- There is a \$16 million increase for environmental information grants.

- There is a \$15 million increase for State and local air quality management in our request.

Science is the foundation of our work at the EPA. And science is supported by the President's request of \$537.3 million. In fiscal year 2015, the EPA is focusing research on the most critical issues facing the Agency.

These include efforts to: advance chemical prioritization and predictive toxicology, help communities make sustainable decisions regarding environmental protection and resilience, and inform regional and community level strategies for the use of green infrastructure and other innovative alternative practices.

The EPA continues to focus on reducing its physical footprint and achieving greater energy efficiency. Since 2006, the EPA has released approximately 428 thousand square feet of space nationwide, resulting in a cumulative annual rent avoidance of over \$14.6 million.

The EPA continues to eliminate programs that have served their purpose, accomplished their mission, or are duplicative. The fiscal year 2015 budget eliminates a

number of such programs totaling nearly \$56 million. These include beaches protection categorical grants, State indoor radon grants, and diesel emissions reductions assistance grants.

Recognizing the importance of the 2-year budget agreement Congress reached in December, which the President's budget adheres to, levels are not sufficient to expand opportunity to all Americans or to drive the growth our economy needs.

For that reason, across the Federal Government, the budget also includes a separate, fully paid for \$56 billion opportunity, growth, and security initiative. This initiative—split evenly between defense and non-defense funding—shows how additional discretionary investments in fiscal year 2015 can spur economic progress, promote opportunity, and strengthen national security.

- Within the initiative is \$1 billion for a climate resilience fund, through which the budget will invest in research and unlock data to better understand and prepare for impacts of a changing climate. These investments will also fund breakthrough technologies and resilient infrastructure.

- Within the climate resilience fund, EPA will support a nation better prepared for the impacts of climate change—with \$10 million for protecting and enhancing coastal wetlands, and \$5 million to support urban forest enhancement and protection.

We have made some very difficult choices in this budget. But we need to look realistically at challenges we face in the future and make sure we have the best tools and people in the right places to make the most difference. Our final fiscal year 2015 budget reflects a balanced approach to accomplishing this.

Thank you for the opportunity to touch upon some of the highlights of EPA's fiscal year 2015 budget request in my testimony today. I look forward to answering your questions.

Senator REED. Thank you very much, Madam Administrator. I will yield my time to Senator Leahy because he has to chair the Judiciary Committee at 10:00 this morning. Senator Leahy.

LAKE CHAMPLAIN GEOGRAPHIC PROGRAM

Senator LEAHY. Mr. Chairman, I appreciate the courtesy very much. And, Administrator McCarthy, we recently met in my office, but we have also, even more importantly, met at the celebration with the Red Sox at the White House.

I have put a full statement in the record. It speaks about the EPA's geographic programs, and it speaks about Lake Champlain and what we have been doing to try to clear that up. This is the largest body of fresh water in the United States outside of the Great Lakes and borders New York State, Vermont, and Canada.

The Federal funding for Lake Champlain that has been cut by more than 60 percent over the past 4 years just as we are undertaking a comprehensive lake restoration plan. So my question is, how can EPA better support and be involved with the work of the Lake Champlain Basin Program, which for 20 years has convened all the Federal agencies working to restore and protect Lake Champlain. And how can EPA help to make the case to support Federal funding for the kind of assistance we need to do that restoration? And I know we have talked with the Governor and everybody else on that.

Ms. MCCARTHY. Well, Senator Leahy, first I want to thank you for your leadership on recognizing as you do the value of Lake Champlain and how important it is to the region and to your State in particular. I know EPA shares your recognition of that value.

We are going to be working pretty hard as a follow-up to the meeting. The concern is that we are in the process of working together on a Total Maximum Daily Load (TMDL) and getting that implemented, but all of these things do carry some costs associated with it. So we are working with our own EPA offices to look at how

we can be more supportive, as well as look across at other agencies in the programs and the Federal funding that is available.

But we will be following up with you, and we will do everything we can to make sure that we can work with you to restore Lake Champlain and maintain its beauty, resilience, and the economic vitality it brings to your region.

Senator LEAHY. Well, it has been authorized at \$11 million per year. The need has never been greater than what it is going to be in 2016.

Ms. MCCARTHY. Yes.

Senator LEAHY. I would hope the EPA would support a larger funding request for the Lake Champlain Geographic Program in 2016. We absolutely need it. It is one of the things we do not ever want to get into the position, for example, that Lake Erie did decades ago where they had much of the same headwaters in nature in their lake. And it became so polluted that one of its tributaries, the Cuyahoga River, caught fire. Here is a river on fire for a couple of days before they could put it out.

We are at a point with a beautiful, pristine lake that we can keep it that way, but it is going to take some real efforts. So please work with us to request more money for that area.

Ms. MCCARTHY. We are happy to work with you, Senator.

NATIONAL RESILIENCE TASK FORCE

Senator LEAHY. You know, in 2011 we had a catastrophic flood in Vermont that dumped nearly as many tons of polluted sediment into Lake Champlain in a matter of hours that we normally would see in a year or more. So I might ask, how will the proposed budget request for climate resilience support with our work in protecting Lake Champlain, particularly since EPA has mandated the new TMDL will be one of the first in the Nation required to account for climate change aspects?

Ms. MCCARTHY. Yes. Well, our work on resilience is multi-faceted, and it is across the administration. Very directly, I know that the good folks in Vermont have been very closely working with the States that experienced the damage from Hurricane Sandy. They have been helping to advise us on how you respond to those challenges, as well as prevent them in the future.

We have funds set aside to work with a number of communities, not only to look at resilience, but how that relates to green infrastructure and our opportunity to look at our waste water and water quality changes and our storm water challenges differently. We also have a National Resilience Task Force that the President has pulled together, and that is an opportunity to learn from across the country about the efforts that are underway to adapt to a changing climate.

Each of the agencies, including EPA, has also developed their own adaptation plan so that while Vermont may be first, you are not going to be the last. We are going to look at actually how State Revolving Fund (SRF) funds can be better informed by the changing climate that we see.

So there are a number of efforts underway, Senator, and we are very serious about working with communities to see how we can help them stay safe in a changing climate.

STATE REVOLVING FUND FUNDS

Senator LEAHY. A lot of these efforts cost money. The EPA budget seems to be a more and more bare bones request each year. For example, the grants to States for the Clean Water State Revolving Fund has been cut by \$431 million. The Drinking Water State Revolving Fund, the Geographic Program, EPA cut that by \$14.6 million. In a little State like ours, that clobbers us.

Ms. MCCARTHY. Yes, it is very difficult, Senator. There are some decisions that have to be made. I think we can all agree that the SRF is one of the most important to maintain health protections for our communities. We have done, I think, a good job over the past 5 years to really provide significant resources for these efforts.

We again did the best job that we could in the 2015 proposal to continue with that and to also recognize that the States have significant money available to them from the already-existing State revolving funds. We are hoping that the money that the States have available on this will be sufficient to continue to maintain progress moving forward.

Senator LEAHY. We will keep working on this.

Ms. MCCARTHY. We will.

Senator LEAHY. And I appreciate your willingness to keep talking with us. But we do have a very critical moment in our State. And, Mr. Chairman, thank you very, very much for your courtesy.

Senator REED. You are entirely welcome, Senator. Senator Murkowski.

Senator MURKOWSKI. Mr. Chairman, thank you. I am going to yield to my colleague who also has to go chair another Appropriations Committee hearing.

FOREST ROADS

Senator COCHRAN. Mr. Chairman, thank you very much. And thank you to the Senator from Alaska.

Let me ask you about forest roads. The U.S. Forest Service lands in our State of Mississippi, there have been some recent changes from EPA's decisions regarding forest roads as a point source of pollution and thereby requiring the filing of compliance with regulations or looking to other agencies besides the U.S. Forest Service for regulations in this area. I raise this because in my State we have some U.S. Forest Service lands, and logging is permitted, and has enjoyed an exemption really in many cases from the filing of compliance information with EPA.

I would just ask you to look into that and be sure that it has not been abused or over zealously restricted the use of forest roads, which has been a tradition in the Forest Service by anybody, EPA included, in maintaining healthy forests. So I am hopeful that maybe you can work that out among the two agencies and come out with a solution that recognizes legitimate interest of the logging community.

Ms. MCCARTHY. I will, Senator. This issue should have been resolved when we revised our storm water permitting program to recognize that you do not need National Pollutant Discharge Elimination System (NPDES) permits for those roads. If, in fact, we are also still continuing our interest in this in other ways, I will get

on that right away, and we will make sure we work something out that is reasonable and appropriate.

Senator COCHRAN. Thank you very much for that assurance. Thank you, Mr. Chairman. Thank you.

Senator REED. Thank you very much, Senator Cochran. I will recognize Senator Udall now, and then return to my colleagues on that side of the aisle.

ABANDONED URANIUM MINES SETTLEMENT

Senator UDALL. Thank you, Chairman Reed. And I was pleased to see the announcement that the U.S. Government has entered into a settlement to clean up toxic remains of abandoned uranium mines on the Navajo Nation and elsewhere in the country. This is the largest environmental settlement, Madam Administrator, as you know, largest environmental settlement in history. And \$1 billion of that will go towards clean up of abandoned uranium mines and mills on the Navajo Nation.

Let me first say that I think this is really important progress, and it is a vindication of the polluter pays principle, which I think is a good, solid free market principle. For too long private industry and the Federal Government failed to ensure the safety of uranium miners, their families, and people affected by the hazards of exposure to radioactive materials.

Uranium mining companies emerged overnight, left a legacy of sickness and contamination, and then tried to walk away leaving others to foot the bill. The Navajo Nation fought hard for fairness and settlement, and this settlement helps to right a historic injustice to the Navajo people and the surrounding communities, and I think will restore the environment.

This is a big step forward, but we should remember we still do not know the full scope of the contamination. This remains a monumental injustice, and I want to work with you closely to follow the progress of the cleanup conducted with these funds to help the Navajo Nation until we are all satisfied that the job is done.

So let me ask, have plans been developed already on how to use this settlement money, and when can we expect to see them, and when we will see new cleanup activities on the ground in the Nation using these funds?

Ms. MCCARTHY. Well, Senator, first let me thank you for raising this. I am pretty proud of this settlement and the work that our enforcement staff did on this as well as the Department of Justice (DOJ). \$4.4 billion dedicated to cleaning up hundreds of contaminated sites is quite an accomplishment.

The settlement was just announced. The court has to approve the settlement. There is a 30-day public comment period associated with that. We are very confident that the court will approve it, but it has to go through that step. We already have trusts established to transfer these funds so that they should become readily available in the shortest time possible.

Senator UDALL. And you are looking at doing that planning that needs to be done so after the court approves it, we can get the funds in the right hands.

Ms. MCCARTHY. Absolutely.

Senator UDALL. Good.

Ms. MCCARTHY. We have been working on these issues, and, in fact, 50 abandoned uranium mines are on our agenda to be one of the first orders of business in the Navajo Nation. So we are very excited.

WASTE ISOLATION PILOT PROJECT

Senator UDALL. Yes, that is great. Well, thank you. And as I said, I think this is historic, and I think it is going to make a big difference to the Navajo Nation and to many places where you have this uranium contamination.

I wanted to ask you also about the Waste Isolation Pilot Project (WIP), and I would like to thank you, Janet McCabe, and Ron Curry for the important EPA presence in Carlsbad to add additional independent air monitoring and personnel. I appreciate that many in your Agency have made it clear that the radioactive releases from WIP have been at levels that are a public health danger. And I am hopeful that your monitoring and verification will continue to support that.

Unfortunately, the facts are that two accidents have happened at WIP that were not supposed to happen, a fire in a mine and a radiological release. The Department of Energy (DOE) oversight has already been found to be lacking, and that is why it is important to the community that an independent public health agency like EPA be on the ground overseeing the recovery phase to ensure public health is protected. Can you give me an update on the EPA's arrival at WIP and their planned activities there? My understanding is that personnel arrived this week to coordinate their monitoring with the reentry of WIP.

Ms. MCCARTHY. That is right. EPA's main job in this is to ensure that we are looking at any level that could have been exceeded in terms of protectiveness to the outside so that surrounding communities are aware of any concerns. We are monitoring that.

So far, it looks like any release has been far below any levels that are necessary for protection, but we are there. We are on the ground. As you know, our region is doing a great job working with DOE because we know people have concerns. This is a big deal. So we have added our own monitors to DOE's. We are going to be monitoring independently so that we can verify those results. We can assure folks that we are doing the right thing and they have the information available to them that they need.

Senator UDALL. Thank you very much. And I cannot tell you how much it has been welcomed in the community that you are there and doing this monitoring. I think it has brought a comfort level in terms of health and safety to the community that we have the EPA being an independent monitor of these radiation releases. So I thank you for that.

I just wanted to mention one thing before my time runs out here. Our State Environment and Health Department has brought to my attention a concerning reduction in the EPA budget on radon. And so, we want to work very closely with you on that as we go through the budgeting process with Chairman Reed.

And I thank you again for all the things that you are working on. Very much appreciate the New Mexico presence. Thank you. And thank you, Mr. Chairman.

Senator REED. Thank you, Senator. Senator Murkowski.

PEBBLE MINE

Senator MURKOWSKI. Thank you, Mr. Chairman. Ms. McCarthy, I want to start my questions with an issue that Alaskans have really been buzzing about, and this is the issue of the Pebble Mine. When you were up in Alaska, you had an opportunity to go out to the region. You spoke with people.

I have reserved judgment on the potential Pebble Mine waiting for the project developers to present an official plan and then seek the permits for it. EPA has decided not to wait, and has instead initiated this process that could very well lead to the first ever preemptive veto under 404(c) of the Clean Water Act.

So my questions to you this morning are in a certain part related to timing here. Do the folks at EPA believe that they know exactly how the Pebble Mine would be developed?

Ms. MCCARTHY. I think that we are well aware of the Security and Exchange Commission (SEC) filings that indicate how the Pebble Mine intends to develop. However—

Senator MURKOWSKI. But we have not seen any permits. We have not seen any application.

Ms. MCCARTHY. That is correct.

Senator MURKOWSKI. We have not seen the definition of that plan. So is it not accurate, though, that EPA would still be able to veto the project once details and specifics are actually permitted? You do not lose that ability to veto later.

Ms. MCCARTHY. That is correct.

Senator MURKOWSKI. And so, I guess my question has always been, why not wait until we know what the specifics and what the criteria are before you move to effectively veto? And again, a preemptive veto is—this would be first ever.

Ms. MCCARTHY. Senator, without getting into the history of the use of 404(c), I want to assure you that what we have done here is to take a first step in this conversation. We have not made any decision.

Senator MURKOWSKI. I understand.

Ms. MCCARTHY. And so, one of the, I think, good things about the 404(c) process that we have just taken a first step on is a first step is to talk to the company. It is to talk to the Army Corps and to the State to understand the scientific concerns, we have identified about this unique place. As we all know, its beauty as well as its importance in terms of the world's largest sock-eyed salmon fishery, and the extent of the mine given how deep the ore is and how low grade it is. What kind of lodge transition that area would go through is how we make sure that we are going to protect it.

We do have an option to wait, but we were petitioned and we felt that given the science, it was really worthy of a unique response, which is to try to get at these issues more quickly given the uncertainty it has raised for the tribes, for the regions, for the economy in that area, and that it was worth at least exploring and going through the public process associated with it.

Senator MURKOWSKI. Well, and, again, I appreciate you outlining that. But I guess I would ask you to put on a different hat rather than as head of the EPA. Look at it from the investor's perspective.

You are—as an investor, you are now asked to consider the fact that EPA may choose to veto a project either before, during, or after, maybe even years after it seeks and receive permits. Why would anybody choose to put the money out? You mentioned the uncertainty to the tribes, but you have got a situation where you are effectively stopping any potential for development before the idea can really get off the ground if you have this notion that you could preemptively veto it before permits come in, during such time as you are constructing, or even afterwards. So how are we promoting certainty here?

Ms. MCCARTHY. Well, I think that the Pebble Mine and its investors are well aware of the authority EPA has here. I think the most important thing we wanted to do was after you complete a scientific assessment and it shows the potential impacts from a mine of this magnitude in that special area—

Senator MURKOWSKI. But again, it is a definition that we have not seen yet because no permits have been filed. No application pending. You can see the concern from the investor side, I hope, as well as from the folks on the ground, how we balance this.

Ms. MCCARTHY. Yes.

Senator MURKOWSKI. But if we have a process that does not allow for certainty along the way, it is pretty difficult to entice anybody to come in and put the dollars up front that would allow for a project, allow for economic development within the region, and allow for jobs and opportunities.

Ms. MCCARTHY. Well, Senator, I do not think that our intent is to create more uncertainty. Our intent is to actually have the conversations we need. If the company is ready for the permit application, they are still free to submit, and we would encourage that. But right now, you have a science document that we think deserves to be looked at and to be discussed with the company.

We also want to make clear that this is a very unique circumstance, both what we believe to be such an extraordinarily large mine in such a unique area, that this is not a change in EPA's operating procedure. It is an opportunity, I hope, to have the conversations that will provide the certainty that the company is looking for and the investors are looking for as well.

Senator MURKOWSKI. So you are not planning on exercising a preemptive veto then.

Ms. MCCARTHY. I have no idea what the end point of this discussion is because it is a process that begins with a conversation. If that conversation indicates that concerns remain, it can then go to a public process, and so it is an extensive public dialogue. And I think that that is what is deserved at this point.

Senator MURKOWSKI. Well, I think you are aware that just at the beginning of this week, one of the investors, one of the principals, has chosen to convey their interest in the mine to not only Bristol Bay Economic Development Corporation, but to a community foundation. And part of the reason for this was a recognition that there is so much uncertainty that their ability to, whether it is to find additional resources or to really continue in the project, have been compromised.

And so, whether this is intended or unintended, and many in Alaska believe that it is intended by the EPA, that this very, very

strong signal that the Agency could come in at any point before, during, or after and pull those permits, it would be a pretty speculative investment on anyone's behalf to continue on.

Mr. Chairman, my time has expired. I will have an opportunity for others when we resume second round.

Ms. MCCARTHY. Thank you, Senator.

Senator REED. Thank you very much, Senator Murkowski. Madam Administrator, let me go back to the—no surprise—the State revolving funds.

Ms. MCCARTHY. Yes.

STATE REVOLVING FUND

Senator REED. Over the last 5 years, the administration has sent up a budget each year, that reduces their request. Working closely with Senator Murkowski and my colleagues, we have restored funding and kept our commitment to States and localities. Again, this year, rather than simply meeting what we did last year, which would be some progress on the side of the administration, they again are suggesting a 25 percent cut. EPA's own estimates suggest that over the next 20 years, we are going to need in the order of over \$600 billion for infrastructure needs. And at the rate we are going, we will never get there, and every year it will get worse and worse and worse.

And we all recognize, too, that the nature of these funds, there is State leverage. It is a revolving fund. Some money comes in, some goes out. It is one of the most efficient ways to build in this country. And it is just baffling to see the administration ignore this at a time when every part of this Nation—Senator Murkowski spoke about the need to get plumbing out literally to some of her constituents. In my situation in Massachusetts and Connecticut, it is trying to repair sewer systems that are over a hundred years old in many cases, here in Washington, DC, even. So it is just inexplicable that we have to again start not from where we were last year, but a 25 percent reduction. So simply, how are we going to do this?

And the final point, everyone here is talking about jobs because that has to be our number one priority, and either creating them or doing things to avoid their inhibition. This program, it is very straightforward. The estimate is about 30,000 people working, and these are good jobs. These are technicians and people who are skilled in terms of installing, designing. We also have provisions in Buy America in the last appropriations bill, which requires that the materials now are going to be produced here in the United States.

Again, I find it baffling that the administration would send up this budget and you would come up and sort of say, well, everything is fine. So can you explain, please?

Ms. MCCARTHY. Sure. Senator, all things being equal, I would love to have given a budget that was much larger on SRF, but we had choices to make, and the President was respectful of the bipartisan agreement that was reached.

The one sort of emphasis I want to place on this is the fact that I do not want you to think that the investment in infrastructure is limited to what EPA is putting in in terms of new dollars. We

do anticipate that somewhere in the order of \$6 billion will be invested between EPA and State dollars as a result of the State revolving fund. It is an incredibly valuable and important program, but it competes against the many other dollars that we are trying to support States in our categorical grants and tribes as well in local communities. We are doing our best to try to, you know, manage the demands on the agencies in a way that will continue to allow EPA to function appropriately and operate.

These are very difficult decisions, and everyone will have certainly their say. And you will finally on what you think is most appropriate to do, and I respect that.

CLIMATE CHANGE

Senator REED. Well, thank you. Working with my colleagues as we have done in the past, I can tell you, my intent is to change this so that we put more resources into the SRF than your budget calls for. It will translate into a modest step in terms of the overall infrastructure problem we have, and also it will put people to work.

Let me pursue an issue that came up in the context of some of your previous responses, and that is how is the climate change issue, the monies that you might have there, together with the President's Opportunity Growth Security Initiative, might be able to leverage additional support for water and sewer infrastructure.

Ms. MCCARTHY. That is a really good question, Mr. Chairman, because I know that we have funding that is dedicated towards climate resilience in this budget. We also have funding that is dedicated towards green infrastructure. We have worked with some of the larger urban areas on our combined sewer work. All of those will be coordinated in a way that will provide additional resources to communities and allow them to identify in the case of green infrastructure opportunities to not only recognize that storm water demands are changing with a changing climate, but there are less expensive ways that allow them to stretch their dollars that are being expended on water and waste water infrastructure in a way that increases the protectiveness as well as lowers the cost.

Now, this is not a panacea, but it is a way of trying to stretch those dollars effectively. We will be coordinating all of those efforts with the States as we move forward.

Senator REED. Well, thank you, Madam Administrator. And I think it is clear, at least I think you know where I am coming from—

Ms. MCCARTHY. I do.

Senator REED [continuing]. When it comes to this State revolving fund issue. Let me recognize Senator Johanns.

AERIAL OVER FLIGHTS

Senator JOHANNNS. Thank you, Mr. Chairman. Administrator McCarthy, let me start today on a positive note, if I could. Before I came over to this hearing, cattlemen were in my office, and they wanted me to express to you that they appreciate what they feel is a more open environment to the EPA, and I know you are working on that communication. And they feel good about the fact that they at least get a chance to be at the table. So I thank you for that, and want to express their appreciation.

Let me, if I might, now ask you a question about actually the omnibus appropriations bill that funded the Government for 2014. There was language directing the EPA to file a report with this committee within 180 days, and it required the amount of funding spent to contract for aerial over flights, the contractor doing the work, number of flights performed, geographical areas including county and State, fiscal year that the number of enforcement actions was utilized, and there were some other requirements.

But let me just ask you, do you anticipate any problems in meeting the requirements of that language, number one. And, number two, do you anticipate any problems in doing it within the 180 days that is specified in that legislation?

Ms. MCCARTHY. Senator, first of all, thank you for the message from the Cattlemen's Association. I am actually meeting with them tomorrow.

Senator JOHANNIS. Yes, I know that, and that is good.

Ms. MCCARTHY. So that will be great. On the aerial over flights, I am aware that language was inserted into the budget or a report. I am not sure which it was. But we are certainly going to be complying with that to the best that we can. I can certainly get back to you in advance of that if we see any particular problems.

Senator JOHANNIS. That would be appreciated. This is something I have been working on, as you know, for an extended period of time. I just want to know what we are doing here.

Ms. MCCARTHY. I understand.

Senator JOHANNIS. And my hope is that there will not be any issue, that compliance will be timely, and it will be done as required by the legislation. So I would ask you to reach out to me and, for that matter, the committee and let us know how you are doing on that.

Ms. MCCARTHY. That would be fine.

Senator JOHANNIS. We will be paying attention.

Ms. MCCARTHY. I am more than happy to do that, Senator. I know this is an issue of great interest to you.

WATERS OF THE UNITED STATES

Senator JOHANNIS. Yes. Let me ask you, if I might, a question or two about this issue of Waters of the United States. And I must admit how this was done I find to be somewhat confusing, and maybe you can fix that. Maybe you can clarify what is going on here.

As I understand, you put the roll out that was intended to clarify Waters of the United States, the proposed rule. And then at the same time, there was issued a—it is entitled U.S. Environmental Protection Agency and U.S. Department of Army interpretive rule regarding the applicability of the Clean Water Act such and such and such.

The reason why I find that confusing is that the rule comes out—the proposed rule, then you have this interpretive document. But my understanding of the interpretive document is that you could change it this afternoon if you wanted to. You do not have to go through any kind of rulemaking process. Why would you not take what is in that interpretive document and put it into the proposed rule, and are you considering that in terms of the final product?

Ms. MCCARTHY. Well, let me explain a little bit for those who may not be following it as closely. The Waters of the United States was really a rule to try to clarify the jurisdiction of the Clean Water Act. It was on the face of some decisions by the Supreme Court which really called into question earlier decisions by EPA. We wanted to make sure that we provided some solid ground.

One of the things we did in this was to really work closely with the U.S. Department of Agriculture to identify the best we could not just the fact that we were maintaining all of the agricultural exemptions that were currently in place, those not in question, was to make sure that we saw over time that the farm practices that were exempt under the Clean Water Act were constantly evolving, and the U.S. Department of Agriculture (USDA) had tremendous expertise in conservation practices, that we thought we could give a nice boost in the arm to, and at the same time clarify these farm practices in a way that did not limit the exemptions, but limited the questions that were coming up about what were legitimate farm practices.

So we not only took the exemptions, but we developed this interpretive rule that identified 56 farm practices working with USDA so that if these farm practices are what you are doing, you did not need to ask a single question about whether they were exempt. You knew they were. And so, we tried to do that in a way that would allow us to expand on those.

It is really a collaboration between the USDA and us, and hopefully the agriculture community when they see this as an ability to allow farmers to do farming, and to not have to ask permission, and to farm with more confidence, and to run their ranches with more confidence. So, we will work through these issues. If people think we did not get it right, I am fine with that, but just because it is not on the list, it does not mean it narrows the exemptions. The list is an attempt to say if you are on here, you do not even to ask whether it is a farm practice that is exempted.

We thought we were doing something really good. If in the end people do not think it is the right strategy, we can certainly rethink this because it is a proposed rule. I am there tomorrow to ask questions and to see how people are thinking about it.

Senator JOHANNIS. Yes. I have already run out of time. So many questions.

Ms. MCCARTHY. I am sorry. I did not mean to take all your time.

Senator JOHANNIS. No, so many questions, so little time. But if I might, as you know, you have farm groups already who are weighing in expressing concern about the proposed rules, et cetera. I think this is an opportunity. I think you think it is an opportunity to say to the farm groups, hey, we are listening. We are hearing what you are saying. We want to get this right for you. We want to clarify.

And I think if you just delivered a message for the next weeks saying, hey, this not permanent ink on the paper, what we are trying to do and what we are willing to do and want to do is circle back with you to get your impression as to whether we get this right or not. And if you do not think we did, tell us what direction you think we should be going. I think that would be enormously reassuring.

Ms. MCCARTHY. Senator, we have gone—I appreciate that, and I totally agree with you. I will be out and about not just in DC, but we also had a really good meeting with stakeholders in our Office of Water Leadership. What we offered to do was instead of just getting together every once in a while, would develop some workshops and look at specific areas of concern so that all the issues could be on the table. We could figure out how to collaborate more effectively. I really want this rule to work for the agriculture community.

Senator JOHANNIS. Okay. Thank you, Mr. Chairman. I appreciate your patience.

Senator REED. Thank you, Senator. Senator Hoeven, please.

Senator HOEVEN. Thank you, Mr. Chairman, and thank you, Administrator, for your recent visit to North Dakota. I want to pick up on the Waters of the United States proposed rule that Senator Johannis was just asking you about.

Our farmers are very concerned about this. I want to emphasize that. Farm groups and our farmers. I was just back in the State, and they are very, very concerned that you are extending the reach of EPA beyond navigable waters to anything that you determine has significant nexus, which we have no idea what that means or how far now you are going to extend EPA reach and authority. And when you talk about legitimate farming practices, our farmers think they know what those are, and they are very concerned that now EPA is going to weigh in and start trying to make that decision.

So this is of immense concern to the ag community. And how are you going to assure us that private property rights are going to be protected as you work to extend the reach of EPA beyond what has traditionally and historically always been navigable bodies of water?

Ms. MCCARTHY. Actually, Senator, we will do everything we can to walk through this rule, and to listen to all the comments, and to try to walk through the history of what the Clean Water Act is supposed to do.

The Clean Water Act is supposed to protect navigable waters. We did not define the jurisdiction of protecting navigable waters to just navigable waters. It is all of the streams and tributaries that can actually significantly impact the integrity of navigable waters. That has always been part of the jurisdiction of the Clean Water Act, and we are not changing that.

But what we are doing is paying very careful attention to what the Supreme Court told us about it is not just enough to be hydraulically connected to navigable waters. You have to really have an ability to significantly impact the integrity of those waters in order for a permit to be required. So we are really trying to pay attention to that, narrowly crafted to what the Clean Water Act said, and to pay attention to the science.

Our intent is to stick with what we have historically regulated under the act, do what the Supreme Court said, and hopefully do a little bit more to the agricultural community to provide them the certainty that they are looking for.

Senator HOEVEN. I think there is going to be significant disagreement on whether or not you are, in fact, extending your authority

here depending on what you do with this significant nexus determination.

Ms. MCCARTHY. Nexus, right.

AGRICULTURAL COMMUNITY

Senator HOEVEN. Going back to what you just talked to Senator Johanns about, we need some kind of process for the ag community to weigh in here. So you need to build it with USDA wherein stakeholders have opportunity.

Ms. MCCARTHY. Absolutely.

Senator HOEVEN. If we are going to do what you just described, this needs significant involvement and input from the agricultural community. How do we accomplish that?

Ms. MCCARTHY. Well, I just indicated that we have already had many meetings, and we are going to have some workshops around this. If there are other suggestions, Senator, I am open to them. I know that there is concern about this, but there is also an indication to—well, let me just say it clearly. There is a distrust between agriculture and EPA, and when we say one word and it can be taken well, it might be taken exactly the opposite. We need to work on that as a whole, and we need to get the language correct so that you are certain that we are doing the right thing here. We will work hard to do that.

Senator HOEVEN. When do you anticipate finalizing the rule?

Ms. MCCARTHY. I cannot tell you exactly, Senator. We are going to take whatever time it takes to get this right. But we generally would look for about a year in between a proposal and final is a standard process for EPA.

Senator HOEVEN. One more time. So a year?

Ms. MCCARTHY. About a year between proposal and final is just generally what we look at. But we know there is a lot of anxiety about this rule, and we want to get it right.

Senator HOEVEN. And you are willing to engage in a process with USDA and with the farm community—farm and ranch community to have a dialogue on this?

Ms. MCCARTHY. Absolutely.

Senator HOEVEN. Okay. So then we need to work on setting that up.

Ms. MCCARTHY. Appreciate that.

CARBON POLLUTION STANDARDS FOR NEW POWER PLANTS

Senator HOEVEN. Let me switch for just a minute to the subject that you were in our State to work on, the CO₂ rules. Tell me, with these CO₂ rules, first in regard to new plants, it is not a rule that is achievable in terms of meeting the CO₂ emission requirements with a natural gas equivalency as you have proposed it, because carbon capture and storage (CCS), carbon, capture, and sequestration, is not commercially viable. So how are we going to build any new coal plants, even with the latest technology and CCS, with your proposed rule?

Ms. MCCARTHY. Well, Senator, with all due respect, we believe that carbon, capture, and sequestration is actually technically feasible, and it is available.

Senator HOEVEN. No, no—I am sorry. I apologize for interrupting. I did not say “technically feasible.” I said “commercially viable.”

Ms. MCCARTHY. Well, technically feasible and available is the standard under the law, and nobody is indicating that CCS is not adding cost. The challenge we have here is that we need to provide a path forward for coal in what we know is a future that will be carbon constrained.

There are already facilities that are being constructed with CCS. This is where new coal and clean coal investment is happening. We are hoping to continue to provide an emphasis for that in this regulation, but certainly it is still a proposal and we are looking at the comments we receive. But we think this is the future, and we think that facilities are investing in it now. We see it for new power plants. CCS has been around for a very long time in other applications.

Let me just mention one thing, Senator. We also took a look at what we could do to keep the cost of CCS down as much as possible while still providing an emphasis for this technology to continue to be developed, continue to be enhanced, and be more cost effective by lowering the amount of capture that is required in this rule from what we had been considering before. So it is partial capture. It is lower cost. It is available now, and we believe it has been technically demonstrated.

Senator HOEVEN. I know my time is up here, but just let me wrap up with the only way that CCS is going to be developed is if it becomes commercially viable, so we have got to get it to that point. By having a rule that prevents it from ever being put in place or from having any company move forward with it, we are never going to develop the very technology we need both to produce the energy and get the stewardship—environmental stewardship we want.

And that also goes to the proposed rule that you are going to be bringing out for existing plants. You have got to show us that whatever rule you bring out is commercially viable and that it is not going to shut down plants, and what the cost to consumers and small business across this country is going to be. It is vitally important as you move forward now with the existing plant rule as well. We need to see that it—you know, that it is something is truly achievable, not technically achievable. It has to be commercially viable.

Ms. MCCARTHY. Senator, I heard you and I heard the good folks in North Dakota when I was there. And we are working hard to do exactly that, and we will have this conversation as many times as we see one another and when it comes out, and I will be looking forward to it. We are working hard on it.

Senator HOEVEN. Thank you.

RENEWABLE FUEL STANDARDS

Senator REED. Thank you very much. Let me begin the second round by focusing on the issue of renewable fuel standards, the EPA proposed volume requirements last November for cellulosic biofuel, biomass based diesel, advanced biofuel, total renewable fuel. These are sort of stagnant at the 2013 levels. You are recom-

mending about 1.28 billion gallons for both 2014 and 2015. In fact, this is not only less than anticipated, it is less than the actual production today, which is about 1.7 billion gallons.

So, many of my colleagues joined together in a letter, and also biodiesel producers in not my State, but across the country, see a threat to their operations because of the standards you are setting. Can you tell us when you anticipate finalizing the volumes of 2014, and will they be increased to encourage more biodiesel?

Ms. MCCARTHY. Well, the good news is, Senator, that when we put the proposal out, we got lots of comments, and there was lots of concern. That was not necessarily the good news part is the lots of concern, but we got lots of comments. We are looking forward to considering those comments in a final. We are hoping to get it done quickly.

You know, personally I think June is likely, and it should never go beyond that. I am hoping that we could do better than that, but it is pretty complicated, and we need to work it through the process.

SOUTHERN NEW ENGLAND ESTUARIES

Senator REED. Thank you. Let me turn now to another issue, and that is the southern New England estuaries. In the omnibus, we had \$2 million for it. It is very critical to my part of the country, your part of the country. And we are pleased that the 2015 budget request includes a \$3 million increase. Can you give us an idea of what activities you hope to pursue, how you are going to select these projects and measure success, and the types of projects that you would anticipate?

Ms. MCCARTHY. Well, as you know, these projects are really all about habitat restoration and water quality. I am pretty excited about the opportunity for increased funds if that comes about. Certainly I think it is pretty important as I know you do as well, Mr. Chairman.

The region has been working pretty hard to put a vision together for how these funds could be best expended, and we certainly have not done it all alone. We actually have a work group that has been initiated that is advising the expenditures and how we can most effectively meet the expectations of the people that will be served with these dollars.

So we will not be sitting in our own offices making this decision. We will be taking a lot of input from the communities themselves. We hope to have a lot that actually provide information that will be available for how you deal with climate resilience and adaptation, green infrastructure. We have seen some of it already starting to happen, and it is pretty exciting.

BEACH ACT GRANT PROGRAM

Senator REED. Thank you, Madam Administrator. Let me talk about another concern, and that is that in this budget EPA is proposing to eliminate the Beach Act Grant Program. And as you know, this program helps States—coastal States to monitor the quality of the water. It is actually part of your not only environmental, but your health responsibilities. Without continued funding, there is a real possibility that the States will not have the

budgets, particularly in our part of the country, to replace this money. And the monitoring and water quality attention will diminish significantly.

Prior to making this determination, did you consider the ability of the States to sort of fill the gap, one. Two, you have now, as you point out, a significant amount of your resources going to State programs to support State activities all across the country.

Ms. MCCARTHY. Yes.

Senator REED. Is this something you are going to insist that they continue through other sources so that this beach grant money will not be detrimental in its absence?

Ms. MCCARTHY. Well, as you know, categorical grants were proposed to increase by \$76 million. And really the intent of the program eliminations was to look at whether or not there is an ability to continue with that without us independently interjecting or creating a fund specifically for that purpose.

On the Beach Monitoring Program, it is a pretty sort of robust program that has been operating for a long time. We think that the States have the ability to do this and will continue to do this given the importance to them and to us, but clearly there are difficult choices that are made. Radon was mentioned as well, which is another eliminated program, as well as the Diesel Emissions Reduction Act (DERA) Program, which for me is a really hard one as well. But we did the best we could, and we are hoping to work with the States moving forward on beach monitoring.

Senator REED. Well, thank you. Again, you put your finger on the next issue, which is the radon program. Senator Leahy mentioned that.

Ms. MCCARTHY. Yes.

RADON PROGRAM

Senator REED. My home State of Rhode Island, we have, I think, three times the national average in terms of the sort of presence of radon in homes and other buildings. And it seems we are taking away some of these programs, and then we are giving a little bit more money to the States in terms of your general support, but giving State budgets their ability to cover all these sorts of gaps—beach monitoring, radon programs, et cetera.

Indeed 23 States reported that they will probably have to eliminate their radon program, and that is another health threat, which, you know, you have a lot of issues from the Waters of the United States, to the air of the United States, to the health of the American people. And we also understand that States—many States are in very difficult situations, Rhode Island being sort of one of those.

Ms. MCCARTHY. Well, thank you for raising the rate on it. If nothing else, I can remind people that after smoking, the leading cause of lung cancer, and it takes approximately 22,000 lives every year. It is something that I have been working on myself for quite a while.

We still have a program on radon, Mr. Chairman, so I do not want you to think that this is an indication that EPA is not going to continue to work with States on radon. But I perfectly understand that it does take some funds away from the States that they have been directing towards this issue.

But we have been working on a Federal radon plan that we actually think is gaining some significant momentum about making sure that people who are buying homes and mortgaging homes through the Federal Government are actually checking for radon, needing to address it, because these are deaths that do not need to happen. Every one of them is preventable with really inexpensive tests and, frankly, incredibly inexpensive renovations to address those.

So it is a frustration, I think, for all of us that we continue to talk about radon decades after it hit the news as one of the leading causes of death. We need to do better, and I know that.

Senator REED. Thank you, Madam Administrator. Senator Murkowski.

CLEAN WATER ACT

Senator MURKOWSKI. Thank you, Mr. Chairman. I want to take you back to the Clean Water Act and the connectivity issue. You have indicated to both Senators Hoeven and our colleague from Nebraska that you are continuing these discussions, and I think that that is going to be critically important moving ahead. Are you planning to hold any meetings in Alaska on the impact of the rule?

Ms. MCCARTHY. Is that your interest, Senator?

Senator MURKOWSKI. That is absolutely my interest.

Ms. MCCARTHY. Okay. I will take—

Senator MURKOWSKI. In fact, I would ask for a commitment that we would—that you would be able to hold at least one, hopefully more, public events scheduled in the State so that resource producers, other stakeholders can express their views and concerns.

Ms. MCCARTHY. Well, Senator, I certainly realize that it was very helpful for me to go to Alaska because you have told me that Alaska is different. I got to see it myself. And I recognize just how much of the land mass there is wetlands and how important this is going to be.

Senator MURKOWSKI. Well, let me ask on that question. Do the folks at EPA have an estimate for the approximate number of acres of land in the State or the percentage of our State that would be subject then to the Clean Water Act as a result of this re-interpretation of the Waters of the United States? Do you have that number?

Ms. MCCARTHY. Well, let me see if we do have that. I know we have a national estimate. I do not know the exact impact on Alaska, but we will certainly respond to that after the hearing.

[NOTE: The information was not provided for the record.]

MAPS OF STREAMS AND WETLANDS

Senator MURKOWSKI. Well, I would appreciate that. And the other thing I would like you to look at, when my staff was looking at the EPA website, they noticed links to maps that purported to show streams and wetlands in all the 50 States. But what was more of a surprise was that the map of seasonal and rain dependent streams does not actually feature Alaska because apparently there is a lack of data. There is a map of drinking water that did include Alaska, but again it shows zero data available.

So it is obviously an issue of concern where supposedly this rule is attempting to provide for clarity and efficiency, but in a State like Alaska where at least your own maps are not indicating that we have the appropriate data within which to base any decisions. So I would like talk with you about that as well. But I think prior to any meetings that you might be holding in the State, I think it is going to be important to be able to provide data so that we can look at that as well.

Ms. MCCARTHY. Well, Senator, I am happy to provide you with what information I have. But, you know, clearly the interest that EPA has is to clearly define what is within the jurisdiction, and then what is the process that you need to go to when there is uncertainty. Because what the science has told us is that science can define certain parameters, but others require a closer look working with States and communities on a case by case basis.

And so, there is the opportunity to be certain in some areas, but to hopefully define a streamlined process in areas where the data is not available so that judgments can be made, and the basis of those judgments can be consistent as the Army Corps makes 404 decisions and EPA interjects and comments on some of those.

Senator MURKOWSKI. And I appreciate a desire for consistency and certainty, but you have started your comments out recognizing that there are unique—

Ms. MCCARTHY. There are.

Senator MURKOWSKI [continuing]. To a State like Alaska—

Ms. MCCARTHY. Absolutely.

Senator MURKOWSKI [continuing]. One-fifth the size of the United States of America, a State where—you will get the percentage for me, but in terms of wetlands in our State, some would say that almost the entire State is subject to a wetland determination. So what that might mean for us is incredibly significant.

And as I have mentioned in my comments, an interpretation that goes a different way could really be a showstopper for us. So we need to—we need to have greater understanding. I think it will be critically important that you and your staff make sure that Alaska is very much given an opportunity to weigh in as these issues move forward.

And I will ask you, we have had a, I think, a pretty good working relationship between the senior staff at EPA, who have made themselves available to meet with my senior folks to talk about usually a laundry list of issues that we have compiled that come up. Some of them we have been able to work through. The issue last year was the mom and pop veterinarian clinic—

Ms. MCCARTHY. Right.

Senator MURKOWSKI [continuing]. That subject to the same incineration rules as a major factory. We were able to work through some of the specifics. We have a lot more on our plate, not the least of which we are still continuing to work on the small incinerator initiative. Great deal of concern still with where we are with the fish grinding requirements for discharge from offshore processors.

So I would like your commitment to continue the practice that we have had over the past couple of years to have your senior folks with operational authority sitting down with my senior advisers in discussing many of these issues. And if we can get a meeting

scheduled sooner than later I think that that would be helpful for both sides.

Ms. MCCARTHY. It has been incredibly valuable, and of course we will continue that, Senator.

HYDRAULIC FRACTURING AND DRINKING WATER

Senator MURKOWSKI. Good. I appreciate that. And, Mr. Chairman, I have one more quick question, if I may, and then I will conclude. And this relates to the budget request. On the Agency's hydraulic fracking study, you have requested an increase of \$8.1 million over last year's level. This study was the result of congressional direction in the 2010 interior bill, which requested an analysis of the "relationship between hydraulic fracturing and drinking water."

So now, according to your budget, you are expanding that study beyond the original congressional mandate to include additional issues, such as water quality in general, air emissions from oil and gas operations, including volatile organic compounds and hazardous air pollutants. So the question that I have for you now is why has the Agency gone beyond the original scope that was outlined in 2010, and how much are we actually paying for an expansion of this study cost? How much has the Agency spent to this point in time?

As you know, many of us are very concerned about this, and feel that the effort coming out of EPA is a duplicative effort. And if we are just spending more money in an effort to expand a project that really does not have the authorization to expand, we want to know.

Ms. MCCARTHY. Well, let me be a little bit clearer because I do understand your question. On the Office of Research and Development study, which is really focused on looking at the potential water impacts related to the full range of hydro fracking operations, we have been expending in 2013, 2014, and 2015, \$6.1 million. My understanding is that this budget requests a similar amount of \$6.1—I am sorry, did I say "billion?"

Senator MURKOWSKI. You said "million."

Ms. MCCARTHY. Oh, I was thinking, wow, that would be great, would it not? A million for the drinking water study. The additional funds are being used for research that is being done collaboratively with the Department of Energy (DOE) and the Department of the Interior (DOI). \$4.3 million of that is looking at water quality in ecological studies that is separate from the Office of Research and Development (ORD). That is research efforts.

Then the \$3.8 million is air emissions. This is an effort to look at methane that is being emitted in the hydro fracking process where we have effectively, and I think nice and quietly and collaboratively, regulated that from natural gas operations during hydro fracking. We have other work to do that in area, including in tribal regions to actually expand some opportunities for controls to be recognized and sources to be permitted through our minor source permitting process.

So there is work to be done, and that is a reflection of that overall work on hydro fracking, not an expansion of the ORD study.

Senator MURKOWSKI. I do not know. Based on what you have just said, it still sounds to me like there is an expansion of that study.

You have indicated that you have other agencies that are a part of this, but it would appear that it goes beyond what was originally asked in our fiscal year 2010 interior bill.

Now the budget indicates that you expect to have a draft report to your scientific advisory board by the end of this year, then you publish a final report in—at the end of 2016 apparently. I guess the last question would be whether at a minimum, would you agree that it does not make sense for the EPA to issue a major rule-making concerning fracking before the final report is issued and reviewed by the Scientific Advisory Board?

Ms. MCCARTHY. I am not aware of any rule that is currently being contemplated, Senator. This hopefully will bring to light data that we have not seen before and will allow everyone to make judgments. Right now, the most important thing that I think we are doing is working to provide States some technical information that they can use if they want to as the line of first defense to protect water in their States. That is how I envision we will continue to operate, unless there is a reason that national intervention is necessary.

Senator MURKOWSKI. Well, and do not get me wrong here. I think that the States are doing a good job here in terms of regulating hydraulic fracking. And so, I just do not see that we need to add another layer with EPA onto that regulation.

Ms. MCCARTHY. I fully understand that.

Senator MURKOWSKI. I am just—I am looking at your budget and trying to follow the timeline here, and that is why I raise that question.

Ms. MCCARTHY. All right. I appreciate that, Senator, and we are not in disagreement.

Senator MURKOWSKI. Okay. Mr. Chairman, that concludes my questions. I appreciate the comments today.

Senator REED. Thank you very much, Senator Murkowski.

ADDITIONAL COMMITTEE QUESTIONS

Thank you, Madam Administrator for your leadership and for your testimony here today. And let me indicate that the record will remain open for statements and for questions from my colleagues until April 16. And I would ask you to respond as quickly as you can to any questions that are forwarded to you from the subcommittee.

QUESTIONS SUBMITTED BY SENATOR JACK REED

CUTTING THE WORKFORCE

Question. The fiscal year 2015 budget request proposes cutting EPA's workforce, which is a significant departure from prior years. This year the budget proposes a staffing level of 15,000. This is almost 1,600 fewer staff than you asked for last year and would result in the lowest agency staffing level since 1989. Please outline EPA's plans for reshaping the workforce? What assurance is there that EPA will retain sufficient expertise to fulfill its mission?

Answer. In the fall of 2013, the EPA began researching the use of voluntary retirement and separation authorities to streamline organizational practices and to realign our workforce to meet changing mission requirements in light of technological advances, resource constraints and limited hiring capacity. Nineteen of our regional and program offices began developing strategic, office-level proposals that formed the basis for Voluntary Early Retirement Authority (VERA) and Voluntary Separation Incentive Payment (VSIP) requests that were submitted to the Office of Per-

sonnel Management in late December 2013. Proposals emphasized streamlining administrative processes, consolidating functions to the greatest extent possible and, in some cases, updating the skill sets of our workforce. This agency-wide effort was undertaken strategically and with thoughtful consideration by all levels of leadership to ensure that critical expertise was retained while allowing the agency to increase efficiency, thus enhancing EPA's ability to meet its mission.

Question. There seems to be a discrepancy in the fiscal year 2015 request between staff numbers that will decline and an operating budget that will increase. Why does the Environmental Programs and Management (EPM) account increase by \$113 million dollars if the overall number of employees will be reduced? If EPA isn't investing in its workforce, how will additional operating funds be used?

Answer. The increase in EPM funds in the fiscal year 2015 President's budget is relative to the fiscal year 2014 enacted level. Despite the reductions to the workforce, a portion of this increase is for additional payroll costs. Our fiscal year 2015 request also invests in our workforce by supporting efforts to build a High Performing Organization (HPO). These efforts support our workforce by maximizing efficiency and allowing them to focus on the most important aspects of their work—interacting with communities; problem solving by applying accessible and accurate data; and developing new approaches to emerging issues—rather than working through process steps that add little value. This requires changing the way we do business through modernizing our work and taking advantage of advances in technology (e.g. applying software that allows more efficient learning events for all employees and reduces the number of redundant learning management systems). On the programmatic side, the additional EPM non-payroll funds requested will enable the Agency to make progress on priorities such as implementing priority water projects in communities, increasing outreach for brownfields projects to help ensure the success of these well received grants, improving data on watersheds to help enhance priority-setting, improving the coordination on chemical plant safety, and working with localities at risk for direct impacts from severe storms or other climate related events.

Question. EPA has already started to reduce its workforce through an early buyout that offers incentives for voluntary separation from the Agency. Are there particular groups of employees targeted for the buyout? Which programs are most heavily impacted? When reductions are completed, what will the smaller EPA look like?

Answer. Nineteen of our regional and program offices developed strategic, office-level proposals that formed the basis for Voluntary Early Retirement Authority (VERA) and Voluntary Separation Incentive Payment (VSIP) requests that were submitted to the Office of Personnel Management in late December 2013. The proposals emphasized streamlining administrative processes, consolidating functions to the greatest extent possible and, in some cases, updating the skill sets of our workforce. Based on these proposals, the five occupational series most often identified to be authorized for VERA/VSIPs across the agency were Environmental Protection Specialist (0028), General Physical Science (1301), Environmental Engineering (0819), General Attorney (0905), and Management and Program Analyst (0343).

The programs with the highest acceptance rate of VERA/VSIP offers were Superfund: Remedial, Superfund: Enforcement, Civil Enforcement, Surface Water Protection, and Compliance Monitoring. The impacts of these departures were considered in the proposals prepared by the regions and programs.

As a result of the VERA/VSIPs, the EPA will be a more streamlined, efficient organization that is well-poised to take on today's challenges and those that present themselves in the future. The reductions achieved through the VERA/VSIPs are spread across 19 regional and program offices; no single office lost a significant number of employees. Most offices are now or will soon be engaged in limited, strategic hiring efforts to obtain employees that possess needed skill sets, which will ensure that EPA maintains its scientific and technical edge, and enable the EPA to meet its mission requirements.

EPA FURLONGHS—PAYROLL DISCREPANCIES

Question. One of the tough budget choices that EPA made last year was the decision to furlough EPA employees. Since that time, it has come to the subcommittee's attention that EPA had at least \$33 million dollars of unspent funds at the end of the fiscal year.

Please explain why EPA had unspent funds from fiscal year 2013 and why these funds weren't used to minimize the impact of the furlough on EPA employees?

Answer. The agency continues to focus on timely use of appropriations to ensure that all funds are expended efficiently but also effectively to ensure the most envi-

ronmental benefit. In many cases, (competitive grants or large contracts, for example) the nature of the work leads to 2-year appropriation funds being committed in the second year. Final calculations identifying the amounts and location of carryover were completed following the end of year closeout. However, the original need for those resources to support the agency mission remained.

In addition, to maintain the commitment to treating all employees equally, a One EPA approach, the carryover would have to have been distributed in the appropriation and program projects aligned with the total payroll need. Lacking transfer authority and certainty on congressional approval for reprogramming requests as well as continued uncertainty concerning fiscal year 2014 appropriation levels at that time, diverting these carryover funds to pay was very problematic and would not guarantee equitable furlough reductions.

Question. While it's not unusual for an agency to have some carryover funds, fiscal year 2013 was not a normal year. How did the agency make its spending decisions and determine funding priorities?

Answer. Working within the appropriation, program area, and project levels provided following sequestration reductions, highly detailed analysis was conducted to balance payroll needs and critical support for the agency's mission with extramural resources. Based on this analysis, our commitment to treating employees equally with respect to furloughs, and the need to continue the work of the agency, the Acting Administrator made a decision concerning the maximum number of hours as well as a firm commitment to reevaluating that number at the midpoint to find any possible reductions made possible by savings in non-pay funds. Over the course of the furlough period, the maximum number was reduced on two occasions resulting in total agency furlough hours being a maximum of 47 per employee.

Question. How many hours of furlough could have been avoided with the unspent funds from fiscal year 2013?

Answer. Without using congressional reprogrammings and having access to transfer authority, the EPA could not have avoided any hours of furlough with unspent funds from fiscal year 2013 while still maintaining its commitment to treating all employees equally.

E-ENTERPRISE INITIATIVE

Question. EPA has proposed a major \$70 million dollar initiative, called E-Enterprise, to transition compliance reporting from paper to electronic web-based reporting. What does EPA hope to achieve with the \$70 million dollar investment and what will its effect be on States and the regulated community?

Answer. E-Enterprise is a broad strategy to modernize how EPA and its co-regulator partners do business, going far beyond the move from paper to web-based (electronic) reporting. The E-Enterprise business strategy will reduce the burden and impact of environmental regulations on regulated entities and co-regulators (States, tribes, and territories) through applying LEAN management principles to programs, improving business processes and modernizing data flows. For fiscal year 2015, the E-Enterprise Leadership Council (EELC), a joint governing body between the States and the EPA, identified \$70 million high-potential projects which align with the E-Enterprise business strategy and are ripe for near-term investment. The majority of these funds are in existing programs/projects, and are contained in EPA's base budget which supports critical functions within those programs. Examples are the Safe Drinking Water Information System (SDWIS), the National Pollutant Discharge Elimination System (NPDES), and e-Manifest in the Resource Conservation and Recovery Act (RCRA) waste management.

Approximately \$19 million of the \$70 million has been identified by the EELC as new work with the immediate potential to significantly reduce burden on States and regulated entities. This includes grant resources to enable State (and tribal) participation in E-Enterprise; development of the Regulatory and Public Portal for data exchange and transparency; and support for streamlining and modernization in a number of environmental programs through the use of shared services.

The Agency has established a new fiscal year 2014-2015 Agency Priority Goal (APG) to improve environmental outcomes and enhance service to the regulated community and the public. The E-Enterprise strategy will help the Agency achieve these burden reduction goals through modernizing data flow processes (e.g. moving from paper-based to electronic reporting) while requiring no additional data to comply with existing regulations. For example, with the Hazardous Waste e-Manifest, burden reduction is estimated between 370,000 and 700,000 hours (and more than \$75 million) for States and the regulated community.

States are supportive of the E-Enterprise business strategy and are already engaging in E-Enterprise efforts. For example, Ohio EPA launched its electronic Dis-

charge Monitoring Report Submission (eDMR) system,¹ which uses electronic reporting to allow permittees to report their discharge measurements quickly and easily online. This method of reporting has increased data quality (errors have dropped from 50,000 per month to 5,000), while also saving significant time and resources for all stakeholders. Ohio EPA reduced the number of reporting staff from 5 FTE to zero through the automated compliance tools and a positive ROI was achieved within 2 years.

Below are a few of many examples of stakeholder (e.g. States and the regulated community) comments expressing support for key pilot projects of the E-Enterprise business strategy including streamlining existing regulations in the Tier 3 Vehicles Emissions and Fuel Standards Program and the NPDES Electronic Reporting rule:

—*Marathon Petroleum Company*.—EPA has made regulatory streamlining a priority and we appreciate the Agency's efforts. We agree that regulatory streamlining will result in more efficient and less costly compliance. We support the elimination of unnecessary and outdated provisions. These provisions are independent of Tier 3 and should be promulgated in a final rule earlier than the Tier 3 final rule. We agree with the Agency that these are straightforward and should be implemented quickly. [EPA-420-R-14-004 p. 6-1]

—*Phillips 66 Company*.—We are appreciative of the effort to streamline various portions of existing regulations. With changes over time, there are several areas that need "clean-up" and this effort will reduce confusion and burden on the regulatory parties. We offer the following comments on the proposed revisions as well as suggestions for other provisions that we feel would add value and should be considered. [EPA-420-R-14-004, p. 6-2]

Change in reporting dates—Overall, the concept of aligning the various reporting dates and being able to develop a unified and simplified reporting form is a good one. Providing additional time is beneficial. We appreciate the Agency providing this change. [EPA-420-R-14-004, p. 6-13]

—*Massachusetts Water Resources Authority (MWRA)*.—MWRA appreciates that the proposed rule [NPDES Electronic Reporting Rule] will allow EPA to obtain, and provide to the public, a more complete picture of NPDES discharges—one that includes small as well as large discharges. Electronic data collection has the potential to reduce the errors in ICIS-NPDES and also allow errors to be corrected in a more timely way. In summary, MWRA generally supports the idea of phased-in electronic reporting, provided data can be accompanied by qualifying comments. Document No. EPA-HQ-OECA-2009-0274-0263-A2.

—*Metropolitan Sewer District of St. Louis (MSD)*.—In general MSD supports the purpose of the rule [NPDES Electronic Reporting Rule] in moving to electronic reporting for many NPDES related activities. We agree that electronic reporting will likely provide for better data recording and management by EPA and authorized States, tribes, or territories. Some portions of the proposed rule will also support communities like MSD in their continued efforts in transparency and to provide the public with uncomplicated access to quality information which is free of errors due to multiple data entry points. Document No. EPA-HQ-OECA-2009-0274-0364-A2.

—*North East Biosolids & Residuals Association (NEBRA)*.—We support the overall concept of the proposed rule [NPDES Electronic Reporting Rule] and agree that, if implemented thoroughly with considerable support, it might achieve the benefits stated in the Federal Register discussion. The increased availability of data would serve to enhance public understanding of wastewater treatment and biosolids management. NEBRA feels that the proposed rule merits further consideration, but that the details of the proposed electronic reporting system are critically important and will determine whether or not the system is a success. Document No. EPA-HQ-OECA-2009-0274-0288-A1.

—*United States Steel*.—U. S. Steel generally supports the rule [NPDES Electronic Reporting Rule] and its goals, such as publically sharing discharge information, improving the Agency's decisionmaking capabilities, and enhancing Agency resources through minimizing expenditures for monthly reporting. Document No. EPA-HQ-OECA-2009-0274-0268-A2.

Question. How many years does EPA expect to request funding for the initiative? What is the total cost estimate and how does EPA expect to spread these costs over future budget cycles?

Answer. Out-year requests are expected to be similar to current request levels. Investments in individual projects are expected to be recouped through the deployed business efficiencies.

¹ <http://www.epa.ohio.gov/dsw/edmr/eDMR.aspx>.

Each budget cycle will include investments to transition the Agency and its co-regulator partners to an updated customer and information-centric business strategy. In a phased implementation approach, a set of programs and projects are chosen for modernization and E-Enterprise supports the planning and development phases.

Aligning EPA's existing programs to the E-Enterprise business strategy will remain a priority for the EPA and States. In the out-years, individual projects will continue to be jointly selected by States and the EPA based on their potential for streamlining, modernization, and potential Return on Investment (ROI). Rather than EPA and States creating a particular capability several times over, the E-Enterprise strategy incorporates a "build once, use many" approach. As individual projects are completed, resources shift to the next priority. Once program systems have been modernized, the program offices manage the ongoing operations and maintenance (O&M) of the systems at a reduced cost for the participating co-regulators than would otherwise have been possible, allowing resources to be used for program implementation. The additional benefits from increasing transparency and improving customer service to stakeholders provide additional value.

Under the E-Enterprise strategy, investments in individual projects have individual value. While priorities will change annually within the overarching E-Enterprise strategy as determined by the co-regulator partners, individual projects that have been completed will continue to operate and provide value.

Question. The budget request discusses the potential cost savings that the regulated community will realize through electronic reporting. Please share details about anticipated savings and, if funding is provided in fiscal year 2015, when is it anticipated that the initiative be fully operational?

Answer. Savings under the E-Enterprise business strategy to the regulated community can be measured in time and resources that will be reduced (e.g. burden reduction) through streamlined regulations and implementation of individual projects. The streamlining of regulations, shared State and EPA information reporting approaches, and moving from paper-based to electronic reporting will result in significant burden reduction. The agency has a commitment of one million hours of burden reduction in one of its fiscal year 2015 Agency Priority Goals. Examples of burden reduction and cost savings estimated for key projects coordinated under the E-Enterprise strategy include the following:

- Safe Drinking Water System (SDWIS).*—910,000 hours of burden reduction for States, 80,000 hours for Public Water Systems and Labs.
- National Pollutant Discharge Elimination System (NPDES) e-reporting Rule.*—914,000 hours of burden reduction, \$28.5M savings for States, \$1.1M savings for permittees, EPA savings of \$0.7M.

The E-Enterprise strategy will cover a series of programs and projects, each of which is designed to be modular with regular milestone deployments. Smaller projects can be fully operational within 1–2 years; projects of larger scope will operational within 3–5 years. Some projects are already underway such as SDWIS and NPDES mentioned above. The intent is for E-Enterprise to continually improve the full range of EPA's environmental programs and projects. The EPA, States, tribes, and territories have a set of legacy information systems to be transitioned and integrated without interruption in service. All programs/projects will undergo an alternatives analysis and business case with a return on investment (ROI) study to determine the cost-effectiveness of proposed changes to the investment.

QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

Question. Administrator McCarthy, both you and President Obama have said that we must have the courage to act before it is too late and make historic investments in resilience to climate change. The President further promised that his fiscal year 2015 budget proposal would include a \$1 billion Climate Resilience Fund. I applaud this priority considering the accelerating impacts of climate change. In Vermont, the EPA recognizes that climate change is impacting water quality in Lake Champlain and is requiring the State of Vermont to address these impacts as part of a new EPA Total Maximum Daily Load (TMDL) plan for phosphorus pollution. In light of the administration's strong commitment to spending \$1 billion in fiscal year 2015 for climate resilience, and that the Lake Champlain phosphorus TMDL will be among the first in the country where the EPA requires climate change to be addressed, please tell me how in fiscal year 2015 and beyond, you will direct additional Federal resources to support implementation of resilience measures as part of the EPA's Lake Champlain phosphorus TMDL efforts?

Answer. The EPA is responsible for developing a new phosphorus Total Maximum Daily Load (TMDL) because, in January 2011, the EPA disapproved Vermont's 2002 Lake Champlain TMDL. The EPA disapproved the 2002 TMDL because it did not provide sufficient assurance that phosphorus reductions from polluted runoff would be achieved, and did not provide an adequate margin of safety (MOS). The development of the new TMDL has given the EPA the opportunity to re-examine and update all the elements of the TMDL and consider factors that would affect phosphorus loads.

Regardless of whether or how potential climate change impacts may be reflected in this TMDL, the EPA remains committed to improving our understanding of how climate change may impact the Lake, such as influencing changes in flow, sediment, and phosphorus inputs. The EPA has funded two climate-related studies in the Lake Champlain watershed. Based on these studies and recent storm events, the EPA and the Vermont (VT) Department of Environmental Conservation (DEC) recognize the importance of incorporating additional resiliency into Best Management Practice designs (e.g., culvert sizing to accommodate larger stream flows) that will be important components of VT DEC's TMDL implementation planning.

The EPA remains committed to supporting implementation of the Lake Champlain TMDL, and it will work with Federal and State partners to leverage the much needed Federal investment in climate resiliency.

I have heard from a number of Vermont residents, farmers, and businesses with concerns about the use of persistent herbicides and the presence of such herbicides in compost. Their gardens and farms have been seriously damaged by compost or mulch that was contaminated with persistent herbicides. These potent chemicals are applied to lawns, pastures, hayfields, and roadsides, and continue to be highly toxic to plant growth even after residues on grass or hay have been composted. These herbicides even remain potent in the composted manure of livestock and horses that graze on treated pastures and hay.

I am worried about the environmental and financial risk to the multi-billion dollar compost industry if new standards and testing are not developed to identify the presence of these herbicides in compost, and if steps are not taken to ensure that persistent herbicides cannot persist in compost at dangerous levels. I fear that, without new protections, there will continue to be tremendous financial loss and environmental damage similar to what we have already experienced in Vermont.

This problem will only escalate as more States and municipalities make it illegal to send leaf and yard debris and food scraps to landfills, and require greater use of composting. Unless the issue of persistent herbicides in compost is addressed, the market for finished compost may simply disappear, or composters may find themselves liable for sizeable payments to their customers with damaged crops, as happened in Vermont.

Question. As the EPA continues its work to review registration for these persistent herbicides, beginning with the ongoing review of Picloram, can you assure me that you will take into account the impact on the compost industry and will the EPA require these persistent herbicides to break down in the composting levels that are not phytotoxic to plants?

Answer. The pyridine class of herbicides (the group of pesticides recently associated with compost problems) are currently in, or approaching, registration review, the program that requires us to re-evaluate registered pesticides every 15 years to ensure the product continues to meet the statutory standard. During this registration review, we are requiring additional data to aid our understanding of how persistent these herbicides are in compost and manure. These data may inform the development of mitigation measures and advisory resources. All members of the pyridine class will be screened for potential compost concerns during the problem formulation stage of the program. Following this initial analysis, we may impose compost-specific data requirements as needed. These data include a dissipation study in compost and an environmental chemistry method (with accompanying independent laboratory validation) on compost. The agency is working with interested stakeholders to develop a protocol for conducting the compost dissipation study. These data will be used to characterize the potential risk from residues in compost and may inform the development of guidance resources for composters.

While the pyridines registration review is underway, we have taken a number of interim steps that appear to have had a positive impact on this issue, including stronger label warnings and restrictions and registrant educational outreach materials. EPA will continue to monitor incidents related to contaminated compost to evaluate the effectiveness of these steps. If these efforts do not resolve contaminated compost issues, the EPA intends to consider additional regulatory action for these herbicides.

Question. What is the EPA doing to develop publically available test methodologies to detect the presence of these herbicides in finished compost and in compost feedstocks?

Answer. We have established a workgroup that is evaluating a standardized testing procedure for pesticides that could persist in composted material. Representatives from the U.S. Compost Council, the California Recycling Council, and the State FIFRA Issues Research and Evaluation Group, participate in this workgroup. We hope to have a standardized testing procedure in place within the next few years.

The EPA has proposed new fine particulate matter (FPM) emission standards for residential wood heaters. I applaud this long overdue update of new source performance standards, considering that cordwood heater technology has improved in the 25 years since the standard was first issued and we now better understand the serious health impacts of fine particulate matter air pollution. I am concerned, however, that implementation of the new standards will place heavy burdens on manufacturers of EPA certified wood heaters as they transition to cleaner technology, while not moving fast enough to take the most polluting devices, those currently exempted from regulation, off the market.

Question. How will the EPA's implementation of a final standard for FPM emissions from wood heaters protect public health while ensuring emission limits and compliance schedules that are viable for U.S. manufactures of high quality certified appliances?

Answer. The proposed rule considers both protection of public health and viability of U.S. manufacturers by using a phased implementation approach. Step 1 of the proposal would level the playing field by requiring emission levels that over 85 percent of currently certified wood stoves already meet and requiring reasonable emission levels for those devices that are not regulated by the 1988 New Source Performance Standard (NSPS). Five years later, Step 2 would require emission levels for all devices that correspond to what the best systems of emission reduction are achieving in the marketplace today.

Question. What more can and will the EPA do to encourage homeowners across the country to make investments in new wood heater technology to change out their older inefficient wood stoves or fireplaces with new EPA certified wood stoves, while also encouraging homeowners to support American manufacturers?

Answer. The EPA places a high priority on encouraging homeowners and manufacturers to invest in cleaner and more efficient technology. We will continue to inform homeowners of the benefits via our Burn Wise program (www.epa.gov/burnwise), provide tools for State, tribal, and local agencies to conduct changeout programs, and provide a means for manufacturers to promote cleaner wood-burning fireplaces.

The EPA is working with the Environmental Defense Fund and others to coordinate a national roundtable to help identify potential funding and technical resources needed for residential changeout programs and promoting other ways to reduce residential wood smoke. The roundtable expects to host members from the EPA, other Federal agencies, such as the Department of Energy, and Housing and Urban Development, manufacturers, and State and local air agencies.

QUESTION SUBMITTED BY SENATOR TOM UDALL

RADON

Question. Our State Environment and Health Department has brought to my attention a concerning reduction in the EPA budget.

I understand the President's budget zeroed out a categorical grant program for radon detection and information. This is disappointing. I understand that we need to make hard choices, but this program provides a lot of significant impacts for every dollar spent.

After smoking, radon is the second leading cause of lung cancer in the United States and the leading cause in non-smokers. It's a significant public health problem throughout the United States.

States like New Mexico have used these grants to inform citizens through outreach, education, and training to lower their risk from exposure to this natural radioactive gas that exists in our homes, schools, and commercial and government buildings. I'd like to work with you to discuss the future of this program.

Can you explain why this program was zeroed out and what we can do to restore funding?

Answer. The State Indoor Radon Grants (SIRG) program was established by Congress to fund the development of States' capacity to raise awareness about radon

risks and promote public health protection by reducing exposure to indoor radon gas. After 26 years in existence, the radon grant program has increased States' technical expertise and capacity to raise awareness about radon risks and promote public health protection by reducing exposure to indoor radon gas. Eliminating the SIRG program is an example of the difficult choices the agency has made in this budget to help meet the Nation's fiscal challenges. The Radon Program will continue to be a priority and the EPA will focus on driving action at the national level with other Federal agencies, through the Federal Radon Action Plan. Released in June of 2011, the Action Plan aims to increase radon risk reduction in homes, schools, and daycare facilities, as well as radon-resistant new construction. It contains both an array of current Federal Government actions to reduce radon risks and a series of new commitments for future action. More information about the Action Plan and its progress is available at: http://www.epa.gov/radon/action_plan.html.

QUESTIONS SUBMITTED BY SENATOR LISA MURKOWSKI

GREENHOUSE GAS NEW SOURCE PERFORMANCE STANDARDS (NSPS)—NEW UNITS

Question. Ms. McCarthy, I am concerned about the impact of the EPA's proposed rule setting New Source Performance Standards for new units and soon to be issued proposed rule for existing units. Alaska's electric system is unique compared to the grid in the lower 48. As you may know, there are 126 certified electric utilities in Alaska, and only 6 of those utilities are connected to each other through the "Railbelt Grid" that serves the most populated areas of the State. The other 120 electric utilities provide electric power to approximately 30 percent of Alaska's population that is spread out over millions of square miles. Usually the "one size fits all" approach to regulations does not work for my State.

Alaskans are concerned they will not have reliable, affordable electric service as a result of the NSPS rules. The utilities in my State face many challenges that utilities in the lower 48 do not face, such as the option to rely on an interconnected grid and the availability of infrastructure and support services.

Would EPA consider providing a waiver to the NSPS rules for electric generating units/utility power plants not located in the contiguous United States?

Answer. The proposed performance standards to limit carbon pollution from newly constructed power plants were published on January 8, 2014 and the public comment period recently closed on May 9, 2014. We are currently reviewing the nearly 2 million comments that we received on the proposed rule. Please note that the proposal does not cover newly constructed oil-fired turbines, which we were told in previous comments are expected to be the most commonly built new sources in remote areas of Alaska and some other areas. The proposal for emission guidelines to limit carbon pollution from existing power plants was signed on June 2, 2014. The Agency heard from many stakeholders—including States, municipalities, utilities, and others—regarding the need for flexibility in developing State plans. The Agency looks forward to receiving comments from the public during the comment period.

SMALL REMOTE INCINERATORS

Question. I want to thank you for your continued efforts to work with the oil and gas and mining industries in Alaska on a new testing program for emissions from small remote incinerators (SRIs). The expectation is that the EPA will consider the emissions data from this program and revise the emissions limits for SRIs, if warranted, based on the new data. If the limits are not revised, no incinerator will be able to continue operating. For most of these incinerators, there simply is no feasible alternative to incineration, or the alternative risks increase environmental damage or risks human and wildlife health and safety. For example, the only alternative for the Oooguruk oil field is to helicopter sling garbage hundreds of miles away to the closest landfill; and this would necessitate waste storage in polar bear habitat.

Do you acknowledge that there is no viable alternative to incineration for most, if not all, of the oil and gas and mining projects where SRIs are located?

Answer. Because of the remote location, SRI units do not always have lower-cost alternative waste disposal options (i.e., landfills) nearby. Emissions associated with transporting the solid waste could be significant.

Question. Please explain why the Park Service may operate the same type of incinerators in Glacier Bay and Denali National Parks, yet they are exempt from emissions limits requirements?

Answer. Incinerators subject to the Commercial and Industrial Solid Waste (CISWI) rule are those located at commercial or industrial facilities. The Park Serv-

ice operates municipal and/or institutional incineration units. Institutional units and certain municipal units are subject to standards under the Other Solid Waste Incineration (OSWI) Rule, which was finalized in December 16, 2005 but does not apply to incinerators located in isolated areas of Alaska. The EPA will evaluate whether to establish standards for such units when it next reviews the OSWI rule pursuant to the periodic review provisions of section 129 of the Clean Air Act.

Question. Is the EPA's intent to continue working with the oil and gas and mining industries on a new testing program for emissions from small remote incinerators to sufficient data will be provided to warrant the EPA taking a second look at the emissions limits for SRIs?

Answer. The EPA is willing to work with SRI stakeholders to ensure that the appropriate data are collected. The EPA staff are engaging regularly with the SRI stakeholders regarding the proposed testing protocol for collecting additional emissions data. On May 27, 2014, we had a meeting to discuss the EPA comments on the most recent revisions to the testing protocol. The EPA will continue engaging in discussions with the SRI owners and operators to develop the protocol for gathering more data.

Question. Does the EPA still intend to consider emissions data from the new testing program and potentially revise the emission limits for SRIs?

Answer. The EPA has a history of considering data submitted by industry and we would do so in this case as well. If SRI stakeholders collect additional data, the new data could be submitted to the EPA with a petition for rulemaking. The EPA is committed to working with the SRI stakeholders to further develop and refine the testing protocol, review a petition for rulemaking and accompanying data, and determine whether further rulemaking is appropriate.

DISCHARGES FROM OFFSHORE FISH PROCESSORS

Question. EPA currently requires that offshore catcher processors operating in Federal waters off the coast of Alaska have a National Pollutant Discharge Elimination System (NPDES) Offshore Seafood Processors General Permit. This NPDES permit applies national effluent limitation guidelines requiring that no "pollutants" may be discharged which exceed ½ inch in any dimension. This standard dates back to 1975 and was developed for shore-based wastewater treatment plants, and applying it to fishing vessels at least 3 miles from shore never has made much sense. In fact, there is little, if any, measurable benefit to the environment. Instead, the offshore catcher processors have experienced significant difficulties in achieving the ½ inch in any dimension standard due to challenges with grinding fish skin, slime, muscle, cartilage, and other internal organ fibers. As they have attempted to meet the standard by installing larger and larger grinders, their fuel consumption, costs, and emissions have gone up, as have the risks for crew operating this dangerous equipment.

It is my understanding that staff in EPA's Office of Water and Region 10 are working with the freezer longline sector to determine whether to take this "fish grinding" requirement through the annual Effluent Limitations Guidelines review process.

Can you confirm that this review is proceeding expeditiously and provide a timeline for the agency's decision on eliminating this permit requirement?

Answer. The Office of Water and Region 10 continue to work with the Freezer Longline sector with respect to their NPDES permit requirements. The EPA expects to complete its evaluation prior to issuance of the next applicable permit.

NPDES GP FOR GEOTECHNICAL DISCHARGES/ARCTIC OIL AND GAS DEVELOPMENT

Question. In November 2013, the EPA released a draft National Pollutant Discharge Elimination System (NPDES) General Permit for geotechnical discharges associated with oil and gas activities off the coast of Alaska. Geotechnical work is a necessary precursor to development, and without coverage under the permit, operators cannot conduct critical soil surveys along potential pipeline routes and at potential production facility locations. Unfortunately, the draft permit is completely unworkable, and forced at least one operator to cancel a geotechnical program planned for 2014. The comment period closed for the draft permit, with extensive comment detailing technical and logistical issues with it.

Is it the agency's intent to put out a revised draft permit for public comment that addresses those issues?

Answer. Based on the comments received during the public review of the draft geotechnical general permit, on March 21, 2014, the EPA determined that certain permit provisions may warrant further consideration. To further that process, the EPA has met with representatives from Shell, BP, and ConocoPhillips to clarify sev-

eral technical issues and obtain additional information. The EPA is in the process of reviewing this new information, in addition to considering all comments received. The EPA will make a determination shortly whether to make changes to the draft general permit and whether these changes are significant enough to warrant re-noticing the draft general permit for public review and comment. The EPA will provide the public with an updated project timeline once this decision has been made.

The draft permit incorporates monitoring and testing requirements (i.e., before, during, and after each borehole) that are similar to the requirements for drilling exploration oil wells. But this is a permit for geotechnical boring discharges.

Question. Can you explain why the requirements for both activities are essentially the same even though the environmental impacts are significantly different?

Answer. The draft geotechnical general permit requirements for environmental monitoring are not essentially the same as those for exploration wells, and in fact, reflect the different nature of the activities.

The draft geotechnical general permit requires two phases of monitoring:

- Phase I includes a physical (wind/current speed and direction, water temperature, salinity, depth and turbidity) and visual characterization of the seafloor at each borehole location. Obtaining this information is relatively straightforward and can be based on existing data. The baseline information is necessary to ensure the geotechnical activity site is not located in or near a sensitive biological area, habitat, or historic properties.
- Phase II is only required if drilling fluids are used and is conducted during and after the geotechnical drilling occurs. Phase II includes observations for potential marine mammal deflection during discharge of non-contact cooling water, which is the largest volume discharge and consists of elevated temperatures, and a physical sea bottom survey. This basic level of monitoring is consistent with NPDES permits where drilling fluids are used.

In contrast, the exploration general permits require four phases of monitoring at each drill site location. Because of the increased discharge volumes and levels of activity, these requirements are more extensive than those in the draft geotechnical general permit:

- Phase I (baseline).*—Initial site survey; collect physical and receiving water chemistry data; analyze drilling fluids for metals; analyze sediment characteristics; evaluate benthic community structure; and conduct dilution, plume, and deposition modeling.
- Phase II (during drilling).*—Effluent toxicity characterization; sample the drilling fluids and drill cuttings discharge plume in the water column; and collect observations for potential marine mammal deflection during periods of discharge.
- Phase III (post-drilling).*—Survey sea bottom; analyze sediment characteristics; and conduct benthic community bioaccumulation monitoring.
- Phase IV (15 months after drilling ceases).*—Survey sea bottom; analyze sediment characteristics; and conduct benthic community bioaccumulation monitoring.

The draft permit incorporates a whaling blackout throughout the Chukchi Sea in the spring and the Beaufort Sea in the fall, which goes beyond the recommendations of the Alaska Eskimo Whaling Commission.

Question. Can you explain to me why the EPA went beyond what even the local subsistence users requested in terms of when geotechnical activities should not occur?

Answer. The draft geotechnical permit does not go beyond the recommendations of the Alaska Eskimo Whaling Commission. The EPA received comments from tribal governments, the North Slope Borough, and the Alaska Eskimo Whaling Commission requesting no discharge into the Spring Lead System before July 15 in the Chukchi Sea and no discharge of any waste stream during fall bowhead hunting in the Beaufort Sea. These requests are much more restrictive than the current requirements of the draft geotechnical permit.

The draft permit applies only to geotechnical discharges associated with oil and gas activities in Alaska. Yet, this type of geotechnical work is routinely performed offshore in the U.S. for work relating to the development of offshore infrastructure for shipping, as well as for wind farms.

Question. Does the EPA require the same sort of rigorous data collection for boreholes drilled for any other outer continental shelf (OCS) purpose—wind farms, port infrastructure outside of State waters, etc? If not, what is the scientific basis for distinguishing between a borehole drilled for a pipeline or production facility survey versus a borehole drilled for any other purpose?

Answer. The EPA Region 10 is not aware of other activities, such as infrastructure development for wind farms or ports, that would require geotechnical surveys to be conducted in the outer continental shelf; nor have NPDES permit applications been submitted for discharges associated with these types of activities.

Please see the response to the previous question regarding the level of monitoring data collection for geotechnical activities. Certain industry operators are proposing to discharge drilling fluids, generally for deeper boreholes that range from 50 to 499 feet beneath the sea floor. Drilling fluids include borehole stabilization additives, which include polymer and bentonite, and may be used for boreholes drilled at 100 feet depth. Some operators plan to add barite to the drilling fluids. Barite is a concern because it is known to contain trace heavy metals, such as mercury, cadmium, arsenic, chromium, lead, nickel, and zinc.

The specific geotechnical activities proposed here also involve a number of different waste streams and the discharge of potentially large volumes of pollutants from geotechnical vessels. Such practices and discharges may not be involved as part of other activities such as port infrastructure or wind farm projects.

In addition, because the geotechnical permit is a general permit, it is designed to include all potential discharges from similar activities, i.e. both shallow and deeper boreholes, drilled with and without drilling fluid. As noted above, if drilling fluids are not used to drill the boreholes, then the monitoring requirements are reduced accordingly. Similarly, the general permit establishes limits specific to each pollutant based on applicable effluent discharge limitations (allowable pollutant concentrations that are established by regulation based on available technology and that apply across a particular industry sector) as well as water quality standards. The EPA applies the standards and requirements to address the pollutants in the discharge regardless of the type of activity.

CLEAN WATER ACT RULEMAKING ON POWER PLANT WATER INTAKE STRUCTURES

Question. Ms. McCarthy, it has come to my attention that the EPA has initiated an Endangered Species Act (ESA) section 7 consultation with the Fish and Wildlife Service and the National Marine Fisheries Service on the proposed rule regarding section 316(b) of the Clean Water Act governing power plant cooling water intake structures. I have been told the nuclear industry has raised concerns about the potential for the rule to be applied in an overly broad manner such that it could require facilities to install cooling towers or stop operations if a threatened or endangered species is located in a water body from which the facility draws water from, even if there is no evidence of impact to that species.

Do you believe the section 316(b) proposed rule should require a power generator to monitor all species in a water body from which a facility draws water from or should the rule only focus on threatened and endangered species directly affected by the intake structure?

Answer. The final rule requires all facilities to identify all species affected by the cooling water intake structure, and then establishes protections for the aquatic life affected by that intake structure. This includes protection of threatened and endangered species.

In the past, section 316(b) monitoring focused on the prevention of "adverse environmental impact" of threatened and endangered aquatic life.

Question. Do you believe the scope of monitoring should be expanded to look at species that may be in the water body and might be indirectly affected by intake structures?

Answer. The EPA's final rule requires that all facilities identify in their permit applications all federally-listed threatened and endangered species and/or designated critical habitat that are or may be present in the vicinity of the intake. Identification can be based on information readily available to the facility at the time of the application. A facility may request to reduce monitoring requirements after the first full permit term, if the monitoring data show that the intake does not directly or indirectly affect listed species/habitat.

Question. Do you think it is appropriate to order a facility to install a cooling tower or stop operations if a threatened or endangered species is located in a water body from which the facility draws water from, when there is no evidence of impact to that species? If yes, should any consideration be given to the impact on electric reliability?

Answer. The final rule provides the Permitting Director (the State or EPA, depending upon the location of the discharge) with much discretion to choose the appropriate technology to protect fish and shellfish generally, or threatened and endangered species in particular at a specific location. Closed cycle cooling is only one

of a number of different technologies the Director may select to prevent impingement or entrainment of fish and shellfish.

INSPECTOR GENERAL (IG) REPORT CONCERNING EPA CREDIT CARD ABUSE

Question. The EPA IG issued a report last month on March 4, and found that over half of the government credit card transactions by EPA employees were used for inappropriate personal expenses—such as gym memberships for friends and family, hotel rooms, and expensive meals. While the number of transactions that the IG looked at was rather small—80 transactions totaling \$152,000—agency employees as a whole spend roughly \$29 million on government credit cards. If anywhere close to half of these charges are inappropriate that is truly alarming.

What processes is EPA putting in place to correct this problem?

Answer. In response to the IG's March 4 report, "Ineffective Oversight of Purchase Card Results in Inappropriate Purchases at EPA" (report no. 14-P-0128), the EPA has implemented or plans to implement the following corrective actions to strengthen management controls within the EPA National Purchase Card Program:

- The EPA will reform and integrate existing biennial reviews into the Office of Acquisition Management (OAM) Contract Management Assessment Program (CMAP). The CMAP is OAM's internal controls program. These internal reviews will be part of organizational self-assessments and peer reviews under the Contract Management Assessment Program (CMAP) to facilitate more robust and independent oversight of the program. The first peer review that included a review of purchase card transactions took place in Region 9 in April 2014. EPA anticipates completing another three regional reviews in fiscal year 2014, and will review all headquarter and regional offices by the end of fiscal year 2017 as part of the agency's plan to review the purchase card programs of all headquarter and regional offices on a 3-year cycle. Purchase card reviews, which OAM conducts, are now a permanent part of the EPA's peer review process under the contract management assessment program.
- The EPA implemented a block of over 130 merchant codes to prevent transactions considered high risk. These include codes considered non-applicable for routine agency transactions. Cardholders must submit supporting documentation to the program for review and override, if appropriate.
- The EPA will deploy an automated system including an electronic purchase card log with a requirement to document all purchase card transactions agency-wide by September 30, 2014. The system will ensure documented evidence of electronic approvals; provide a record of all purchases made with purchase cards and/or convenience checks; allow virtual audits of all purchase card transactions and provide the ability to conduct spend analysis on all purchase card transactions. The agency began an automation pilot with several agency cardholders on March 31, 2014.
- Effective March 18, 2014, the EPA placed a moratorium on the issuance of new purchase card and convenience check accounts while we continue to improve management oversight and internal controls.
- The EPA is drafting improvements to agencywide standard operating procedures, and minimum documentation required, for each purchase card transaction. These draft improvements were completed and sent out for agency review and comment. The EPA's OAM is currently reviewing comments.
- The EPA is developing training sessions on purchase card policy and procedures for purchase cardholders and approving officials to address the non-compliance issues identified in the report. The EPA's OAM has also changed purchase card refresher training requirements from every 3 years to every 2 years.
- The EPA is reviewing the subject audit findings to ascertain the specific areas of non-compliance that need to be addressed with cardholders and approving officials. The agency will institute follow-up actions as appropriate to hold individuals accountable and to recover funds used for prohibited, improper or erroneous purchases identified in this audit. Depending on the severity of the violation, cardholder(s) and approving official(s) in violation of agency policy and/or procedures may have their authority revoked, or suspended pending the completion of this review.
- The EPA is finalizing its Awards Policy to eliminate the use of Gift Cards and Gift Certificates within the agency.

QUESTIONS SUBMITTED BY SENATOR THAD COCHRAN

Question. Earlier this month, the Governor of Mississippi declared a state of emergency in 12 counties due to severe rain and flooding in the Pearl River Basin.

In 1979, similar weather related events caused the Pearl River to flood the capitol city of Jackson, Mississippi, which resulted in damages equivalent to \$1.3 billion in today's terms. To date, Jackson doesn't have a comprehensive flood risk management solution and remains vulnerable to flood risk, despite many years of efforts between local leaders and the Army Corps of Engineers to develop an effective solution. Years and even decades may pass from the time the Corps is authorized to study a water-resources related problem and when the Corps actually constructs a project, and numerous Civil Works actions are subject to outside agency review, consultation, or coordination. Additionally, it is my understanding that individual projects often take longer than anticipated due to disagreements between Federal agencies. In your testimony, you suggest the fiscal year 2015 budget request strengthens EPA partnerships with a focus on aligning resources, avoiding duplication, and closing gaps in the broader environmental enterprise system.

If Congress provides the amount of funding recommended to be appropriated by our subcommittee, will the EPA be able to do a better job working with the Corps of Engineers to streamline flood control projects and reduce inefficiencies and delays with regard to environmental regulations and requirements?

Answer. The EPA appreciates your concerns over the time it can take to plan and construct major flood control projects. This administration is committed to expeditiously building a 21st century infrastructure, including flood control projects, highways and pipelines, in a manner that also safeguards our communities and the environment. Over the past year, the EPA has worked closely with OMB, the White House Council on Environmental Quality (CEQ), and several other Federal agencies, including the U.S. Army Corps of Engineers, to develop a plan that will modernize the Federal Government's role in permitting and review processes for infrastructure projects. This plan was published on May 14, 2014, and identifies a wide range of strategies and reforms, with both near-term and long-term milestones including improving interagency coordination. The EPA's budget request includes funding that will enable us to work more effectively with other agencies as they propose and review these critical infrastructure projects.

Question. The Corps of Engineers has indicated the Jackson metropolitan area will remain vulnerable to flood risks as well as life and safety issues. Currently, the Pearl River is several feet above flood stage and is expected to rise. Given the current situation, would you be willing to work with the Corps of Engineers and the Rankin-Hinds Drainage Control District as they move to find a solution?

Answer. EPA stands ready to work with the Corps and local authorities to provide technical assistance and support to the affected communities.

The Pesticide Registration Improvement Renewal Act was passed in 2012. It sets a minimum funding level required in order to allow EPA to collect registration service fees. However, sequestration, combined with a continuing resolution, has required Congress to waive the minimum level to allow the pesticide registration program to continue to operate.

Question. Was EPA's guidance to the Congressional committees of jurisdiction on the decision timelines included in the Pesticide Registration Improvement Act (PRIA) reauthorization based on specific funding levels?

Answer. Yes, EPA's ability to meet the PRIA decision review timeframes was based on receiving both the minimum appropriation level specified in the law—\$128.3 million—and the PRIA fees.

Question. Has EPA been able to adhere to those timelines given the funding that has been provided for fiscal year 2013 and fiscal year 2014?

Answer. No, in fiscal year 2013 (the first year of PRIA-3), the on-time completion rate fell to 98.8 percent due to a fiscal year 2013 budget cut and personnel furloughs. We expect the partial Government shutdown of October 2013, as well as a fiscal year 2014 budget cut, to have a further, measurable impact on the fiscal year 2014 on-time completion rate. We will be able to evaluate and report that impact after the fiscal year ends on September 30, 2014.

Question. How does this compare to actions under PRIA-I or PRIA-II?

Answer. During the 3.5 years of PRIA-1 (fiscal year 2004–fiscal year 2007), the on-time completion rate was 99.9 percent. During the 5 years of PRIA-2 (fiscal year 2008–fiscal year 2012), the on-time completion rate was 99.3 percent. The table below contains the total number of actions completed and the number of those actions completed late under PRIA-1, PRIA-2, and PRIA-3.

	Fiscal Years	# of completed actions	# of actions completed late	Percent on time
PRIA 1	2004–2007	4,273	3	>99.9
PRIA 2	2008–2012	7,892	55	99.3
PRIA 3	2013	2,084	25	98.8

Question. What would be the impact of funding below \$128.3 million in future years? Please include impacts that address both inclusion and exclusion of a waiver of the minimum appropriation.

Answer. As stated above, EPA's ability to meet the PRIA decision review timeframes is based on receiving both the minimum appropriation level specified in the law—\$128.3 million—and the PRIA fees. Below that level, EPA is increasingly challenged to meet the PRIA timeframes as the number of actions increased substantially in 2013. The full impact of the current budget will be better understood at the end of fiscal year 2014. If, in the future, the minimum appropriations requirement is not met, and no waiver of that requirement is provided, then EPA's authority to collect PRIA fees would be suspended. The loss of PRIA fees, which on average generate about \$15 million per year, would significantly impact EPA's ability to meet the timelines set forth in the legislation. The resulting delays in the pesticide registration process impact the ability of food producers to fight crop pests and effectively maintain food production.

Question. In 2012, EPA stated that as a result of beach grant funds, the number of monitored beaches in the country has more than tripled. The President's budget proposes to eliminate categorical grants for the beach protection program. Given the current fiscal strain on State and local environmental agencies, what impact do you estimate the elimination of grant funds would have on the number of beaches monitored?

Answer. We do not have information about the number of beaches that would not be monitored, or would be monitored on a reduced schedule.

Question. There is growing concerns from a variety of stakeholders about EPA's willingness to "Sue and Settle." It is my understand that Federal agencies including the EPA, the Fish and Wildlife Service (FWS), and the Department of Agriculture are opting not to appeal environmental lawsuits in an attempt to regulate rather than litigate. I am concerned settlements are being conducted without any transparency or public input. Often these settlements can yield new regulations imposing costly burden on agriculture, construction, manufacturing and other businesses. What is the number of lawsuits EPA has settled in the past year and how much EPA paid to resolve these lawsuits?

Answer. Each settlement agreement is the result of a negotiation between opposing parties, with the Department Of Justice (DOJ) representing the Environmental protection Agency and the interests of the United States. In some cases, the agreements also go out for public comment, and are entered by a court only upon a finding that the terms are fair, reasonable, and in the public interest, and that the overall resolution is consistent with the underlying statute and allegations.

In fiscal year 2013, the EPA did not pay fees in the settlement of any defensive environmental cases out of EPA's appropriated funds. In the EPA's most recent "Attorney Fee and Cost Payments Obligated in Fiscal Year 2013 Under Equal Access for Justice Act" report, located in the fiscal year 2015 Congressional Justification, the EPA reported 12 settlements of defensive environmental cases in fiscal year 2013. These payments were all made through DOJ from the Judgment Fund administered by the Treasury Department. Total fees paid in those cases were approximately \$423,267.50.

The EPA does not and will not commit in a settlement agreement to any final, substantive outcome in a rulemaking or other decisionmaking process. Rather, in EPA rulemaking, there is an extensive and robust public process, designed specifically to provide for input and participation. The Administrative Procedure Act (APA) requires the Agency to provide public notice and an opportunity for comment on all proposed rules. This opportunity to comment is open to any interested party and comments submitted are carefully considered and often significantly shape the final rule. It is after the conclusion of that public process that Agency would publish a final rule.

Question. I have concerns with EPA's mishandling of sensitive information belonging to farmers and livestock producers. It is my understanding this wide spread problem affected 30 or more States. The EPA has a responsibility to protect the American citizens' personal information from government mismanagement. What safeguards has EPA implemented to make sure that the personal information of farmers and livestock producers is not inadvertently released again?

Answer. The EPA understands the need to protect personal information. The EPA has a Privacy Policy which establishes agency requirements for safeguarding the collection, access, use, dissemination, and storage of personally identifiable information and Privacy Act information in accordance with the Privacy Act of 1974, the E-Government Act of 2002, the Federal Information Security Management Act (FISMA), and policy and guidance issued by the President and the Office of Management and Budget. The EPA also has a Privacy Act Manual, which establishes policy and procedures for protecting the privacy of individuals who are identified in EPA's information systems. The EPA will continue to work together with our Federal partners, industry, and other stakeholders to ensure the agency continues to address the privacy interests of farmers.

Question. Section 12313 of the Agricultural Act of 2014 amends section 402(I) of the Clean Water Act to reaffirm EPA's longstanding policy that Best Management Practices for forest-related activities are recognized and pollution discharge permits are not needed for stormwater runoff.

Does EPA commit to implementing this provision as Congress intended?

Answer. Prior to the Agricultural Act of 2014, the EPA revised its Phase I stormwater regulations to clarify that stormwater discharges from forest roads do not constitute stormwater discharges associated with industrial activity and that National Pollutant Discharge Elimination System (NPDES) permits are not required for these discharges. This is consistent with the Agricultural Act of 2014.

Question. In what, if any, circumstances would EPA disregard congressional intent and in fact require this kind of permitting for forestry activities?

Answer. The Agricultural Act of 2014 clearly directed that the EPA shall not require or direct any States to require an NPDES permit for runoff from forest roads. The EPA continues to review available information on the water quality impacts of stormwater discharges from forest roads. In addressing water quality impacts from these roads, the EPA will work with stakeholders and State and Federal partners to explore flexible, non-permitting approaches under the Clean Water Act. The EPA recognizes that effective best management practices exist that protect receiving waters and minimize impacts from forest roads.

Question. The EPA recently announced a proposed rule on waters of the United States that identifies exempted agricultural conservation practices not subject to Clean Water Act permitting.

Will this rule give EPA the authority to enter into negotiations with the Department of Agriculture related to the technical aspects of a conservation practice if a desired water quality benefit is not achieved?

Answer. No, under the interpretive rule and associated Memorandum of Understanding (MOU), Natural Resources Conservation Service (NRCS) authority to develop conservation practices is unchanged. At the same time, however, the agencies' MOU contemplates continued collaboration among the agencies, including evaluating the implementation of relevant practice standards to ensure they are resulting in anticipated water quality benefits.

Question. Would this new rule give EPA new abilities to usurp the expertise of the Department of Agriculture with regard to conservation standards?

Answer. No. Nothing in the interpretive rule changes the roles or responsibilities of any of the three agencies. NRCS remains solely responsible under its authority for developing agricultural conservation practice standards.

SUBCOMMITTEE RECESS

Senator REED. With no further questions, thank you again, Madam Administrator. Thank you, Senator Murkowski. The hearing is adjourned.

[Whereupon, at 10:47 a.m., Wednesday, April 9, the subcommittee was recessed, to reconvene subject to the call of the Chair.]